

RELIGION IN REPUBLICAN ROME

Rationalization and Ritual Change

JÖRG RÜPKE



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RELIGION IN REPUBLICAN ROME

Rationalization and Ritual Change

Jörg Rüpke

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Introduction

Roman religion as we know it is largely the product of the middle and late Republic, the period falling roughly between the victory of Rome over its Latin allies in 338 B.C.E. and the attempt of Italian peoples in the Social War to stop Roman domination, resulting in the victory of Rome over all of Italy in 89.

Impelled by sea changes in the nature and structure of the Roman aristocracy, and itself helping to consolidate, channel, and constrain those changes, Roman religion was transformed over this period. The inventions and revisions then undertaken might be separately classified and analyzed under rubrics like ritualization, routinization, systematization, even abstraction, skepticism, Hellenization, and modernization. In this book, I shall argue that the bulk of this change might helpfully be understood as rationalizing: rules and principles were abstracted from practice; these were made the object of a specialized discourse, with its own rules of argument, and institutional loci; and, thus codified and elaborated, these then guided future conduct and innovation.

Let me make one thing clear at the outset. The evidence does not permit us to say, and I will in any event not argue, that all change in this period was systematic or purposive, or that it was driven by processes in the intellectual sphere. The massive changes that took place in Roman ritual life in the late fourth century, when sweeping accretions were made to an earlier calendrical and topographically localized ritual system, are a case in point. As I shall describe and attempt to explain in Chapter 2, these changes should be seen as driven in the first instance by varied political motives. But in the period that followed, and continuing throughout the third century, religious changes exhibit a logic that is the product at once of their formation in a particular place and time, and also of their subjection to discursive control. What we know of them, what they became, is the result of their revision and performance under the rationalizing and systematizing pressures of late

middle republican religious discourse, processes that gained momentum down to the end of the Republic. This is the development described and analyzed in this book.

Rationalization

Even superficial examination of the final two centuries of the Roman Republic, from c. 240 to 40, reveals an urban society experiencing rapid change in several areas—social, political, juridical, economic, and religious—in connection with large-scale political and economic expansion and massive cultural imports, especially of tastes and practices understood as Greek.¹ This process has been described in terms of escalating conflict in the political arena and as a (partial) modernization in the cultural arena. Most often, it is described in terms of an accelerating Hellenization of both Roman culture and Italian urbanism, and a concomitant decline of tradition, leading to the end of the Republic and a breakdown of republican Roman religion. This study calls for a reconsideration of how this process should be characterized: it does so on the basis of findings arising out of the multidimensional contextualization of religious change within the other areas of Roman republican society already named—that is, the political, economic, and juridical arenas.

It will be argued here that Max Weber's concept of rationalization and his typology of rationality provide an enormously useful index for describing religious and cultural change in this period. By "rationality" I refer not to some branch or descendant of Aristotelian logic—itself a type of theoretical rationality—but to the ordering and systematization of concepts, practices, or instruments used to reach particular ends.² In particular, I define "rationalization" as the attempt to apply ideas to practices and to systematize those practices in order to put them into words and submit them to rules. Rationalization is the systematization—or attempted systematization—of practice.³ By adopting such an analytic framework, I argue, it is possible not simply to analyze changes in different realms comparatively, but also to concentrate investigation intensively on the connections and differences between developments, and the groups that sustained those changes. These are complex claims. Let me attempt to clarify them provisionally at the outset.

Again, it should be emphasized that the particular characteristics of Western rationality are not of primary concern for my analysis. This is so even though classical Greek thought as synthesized in Latin texts of the late

Roman Republic—especially those by Cicero and Varro—played a foundational role in European thought up to the early modern period.⁴ Instead, following Wolfgang Schluchter, I approach Weber's socioreligious studies as contributions to research on typology and historical change.⁵ So understood, Weber's implicit and explicit conceptual tools can be used for the analysis of specific societies, whether Western or not, as well as for their comparative classification. All manner of caution is obviously necessary nonetheless: Weber's conceptual system does after all proceed from assumptions derived from his work in the field of religion, work that is today considered outdated. But this does not prevent his work from being useful as an interpretive framework, as long as one adopts a critical stance.

In point of fact, it is precisely Weber's interest in religion that invites the application of his concept of rationality to the analysis of developments of the late Roman Republic.⁶ Our sources for this period imply that developments in religious practice and reflection on religion played a key role within the larger process of cultural change. In the political communication of the Roman aristocracy, too, religious media played a central role.⁷ That said, the centrality of religion across these domains of political action and cultural production must be seen as contingent and should be subjected to repeated evaluation in different periods.

Placing changes in the domain of religion at the center of analysis even as one contextualizes those same changes potentially permits an understanding of late Roman republican society to surmount the current interpretation of aristocratic practice in respect to religion with all its implied polarities, that is, as paradox, cognitive dissonance, or hypocrisy. That the pontifex Cotta, a participant in Cicero's philosophical dialogue *On the Nature of the Gods*, claims simply to ignore all philosophical skepticism in his priestly activities—seemingly repudiating any imputation of cognitive dissonance⁸—is not a historical datum, but merely Cicero's literary solution to the problem of this discrepancy. Theories of balkanization simply cannot provide an adequate description of the behavior of the late republican aristocracy, which experienced the practical success of rationalization firsthand.

Within this approach to rationalization, with its emphasis on communicative practice and the institutionalization of knowledge production and interpretive rule-making, it is essential to identify the contexts of production and performance of our main sources, as well as the communicative practices described in these sources. This includes the communicative function of religious practices that were made the objects of discourse. Hence, to anticipate

a thesis I shall defend in what follows, I suggest that the various Greek precedents for rational discourse about religion did not gain acceptance at Rome simply because of their rationality; their success was, rather, dependent on the existence of a public audience that was open to and, indeed, already engaged in the rationalization of religion. In other words, this project cannot proceed solely through the reading of texts and tracing of their reception. We must also study the formation of public audiences and their institutional context. This topic is taken up in the first part of this book, which is dedicated to rituals.

Outline of the Book

A serious history of republican religion has not been written.⁹ This book fills this gap in scholarship by pursuing an interest in both Roman history and the history of religion, inquiring into the formative period of Rome's initial experiments with imperial expansion and continuing into the late middle and late Republic. Thus, while the primary focus of this book is on the period from roughly 240 to 40 B.C.E., occasional glimpses into earlier periods are included. Mapping change requires attention to chronology, and this book is structured to shed light on both change and its chronology. While the final chapter (Chapter 14) summarizes the processes analyzed in the previous chapters in depth, Chapter 1 attempts to reconstruct Roman religion at the dawn of our period, as far as is possible from the meager extant evidence.¹⁰

The first part of this book (Chapters 2–5) is dedicated to public ritual. The term “public” denotes a large audience that is ideologically identified as the Roman people, even if it is not representative in any legal or statistical manner. As used in this volume, “public” is not a precisely differentiated analytical term but rather a heuristic one. Particularly as an anachronistic term, which is colored by modern ideas of participatory decision-making processes, it raises the question of arenas of communication that indicate “audiences” beyond themselves in the realm of the entire society. In this sense “public,” in the singular, represents an arena of communication that enables open, general communication and association, *publicité* and *communauté*. Communicative situations involving audiences of this type are reviewed first (Chapter 2). The rituals of republican religion are then analyzed for changes in their visibility and the size of their audience, as are situations—political and juridical assemblies, to name but two—that might form theaters

of communication (Chapter 3). In this ritual context of communication, as arguments were formed or were able to take effect, critical reflection on institutions and further institutionalization arising from those reflections could be articulated.

Dramatic performances, it has been stressed, offered an important communicative space, and the texts performed in that space—objects of brief glances in the opening chapters of this book—receive detailed examination in Chapter 4.¹¹ But the performative aspect of drama should not so occupy our attention that we neglect to consider the circulation of written drama from the later second century B.C.E. onward.¹² Some passages preserved among the fragments of the second-century poet Accius will allow important insights into incipient rationalizing interpretations of religion in this period.

At the end of the first part, our focus will shift to the language of ritual. The development of the triumph constitutes an instance of the effects of ritualization in the form of a public ritual as a form of control (Chapter 5).

The second part of this book will directly address texts and the establishment of rules, shifting the focus from the middle to the late Republic. My point of departure is the presence of highly developed practical and theoretical rationalizations: practical in the form of instrumental rationalization, that is, solutions to technical problems, and the rationalization of values; theoretical in the form of causal, for example intellectual, rationalization in epistemological theory and worldviews. Outside the sphere of religion, we might locate such rationalizing tendencies in late republican culture first in the form of Greek schools and texts.¹³ Greek culture occupied a prestigious position in this period, of course: Roman aristocrats competed to equip their villas with Greek art, and Greek culture dominated on stage. But my focus will be on the forms of rationalization visible within this borrowed Greek culture, and in particular on what I call insular rationalizations, namely, segmental systematizations.

Rhetoric is an example of such insular rationalization. By the second century it had been developed into a teachable art of convincing argumentation. In conformity with the conventions of Roman historical thought, a story was naturally told of the arrival of rhetoric at Rome: in 155 B.C.E., Carneades demonstrated the truth of a claim on one day and the truth of the opposite claim on the following day.¹⁴ He was driven out of the city, but Greek rhetoric nevertheless attracted Romans in the subsequent decades. It also remained controversial: the setting up of Latin rhetorical schools was forbidden as late as 92. This type of rationalization thus remained insular in

two senses: it was denied a large spread, and its successful application was restricted to intellectual discourse in private houses, books, and pleading in the courts. Divination, too, became the object of a discursive tradition, both within and without institutional controls, and, as with rhetoric, this occurred against the backdrop of intensive Greek philosophical discussion. Sacrificial practices, for instance, were hardly subjected to similar systematization or critique.

After a short introduction dealing with the spread of writing (Chapter 6), the chapters of this section focus on the Roman *fasti*—that is, the calendar (Chapter 7); religious rules and their place in historiographic reflection (Chapter 8); and the late republican attempt at describing the place of religion within a constitution-like charter, the *lex Ursonensis* (Chapter 9).

Despite their insular character, I argue that the historical cases thus reviewed were not mere attempts at, but indeed successful instances of, rationalization. Giving full weight to that fact is a major concern of this book. Even if such rationalizations must first be attached to formal criteria, primarily to systematization in the mode of language, the question of the problem-solving capacity of such formal rationality—in the eyes of contemporaries—cannot be ignored. On this basis this book will expand upon Claudia Moatti's original and convincing attempt to locate the "birth of rationality in Rome" in Cicero's generation, that is, in the first century, through a gestational history and through differentiation of her concept of rationality.¹⁵ This opens up a new perspective on a culture that has often been seen as merely transitional and is rarely credited with originality.¹⁶ Indeed, it is precisely the opportunity to investigate the development and diffusion of rationality, and the clash of rationalizing and the mythological worldviews (to use the hackneyed characterizations), that constitutes the attraction of my topic.¹⁷ Thus the third section will deal with two theoretical genres, antiquarianism and philosophy. A brief introduction to the problems and analytical tools (Chapter 10) will be followed by analyses of two figures whose writings survive only in fragments but who are nonetheless important indicators of religious change, namely Ennius and Varro (Chapters 11 and 12). An analysis of Cicero's classical philosophical treatments of religion concludes this part (Chapter 13).

As cultural change within cultural exchange becomes a notion of growing importance throughout the book, the final chapter (Chapter 14) will try to map the interrelation of the two processes. The last two centuries of the Republic were characterized by complex processes of expansion and reception, the consolidation of new elites, the formation of insular rationalizations

before large-scale alternative worldviews, and sweeping institutional change, all of which cast a petrified tradition into a defensive stance. In this context, “religion” did not go unchallenged. Instead, it grew in importance and in its range of application and systematization. This book’s underlying conviction holds that well into the Augustan and imperial periods, religion can serve as an indicator of historical change.

Chapter 1

The Background: Roman Religion of the Archaic and Early Republican Periods

Historical Sketch

The mapping of change needs a background. However, our knowledge of religion in early Rome is very limited. Contemporary literary sources or reliable later accounts are not available before the second half of the fourth or third century B.C.E. respectively.¹ Already by this time, the armies of Rome and its allies had started to build an empire that by the end of the first century B.C.E. comprised the whole of the Mediterranean coast. This is the period under scrutiny in this book. What is more, by the end of the first century C.E. much of the Mediterranean's hinterland, to wit, the whole of western Europe, including Britain, and much of southeastern Europe, including today's Austria, Hungary, Bulgaria, and Romania, and Asia Minor as far as Armenia had been added to the empire. Rome defended a hostile border with the Sassanian Persian Empire, influenced patterns in Arabian legislation, North African urbanization, and Celtic artistic representations—and became the seedbed of several major processes of rationalization in religious traditions.

Situated on or near a crossing of the Tiber, a distance of some twenty-five kilometers from the open sea, continuous settlement in the area of the later city of Rome started in the tenth century. The Tiber, even if large compared to other Italian streams, was but one of the relatively short west-flowing rivers that structured the western slopes of the central Italian Apennine chain. By the beginning of the eighth century, the settlements on the Palatine and the Quirinal fused. Urbanization proper begins at Rome only at the beginning of the so-called “late orientaling period” (c. 650/40),² indicated by three interconnected processes. First, the Forum Romanum was

paved in tamped earth, with some huts removed for this purpose; a stone pavement followed around 625. Second, by the sixth century, the *cloaca maxima*, a monumental tunnel, was created to drain the area. Developments in domestic architecture, the third step, are somewhat harder to date, but nonetheless, by this time at least, houses of stone with tiled rather than thatched roofs were being built on the slopes of the Palatine and on the Velia. Their form anticipated the later atrium-type with a number of rooms around a courtyard, and some had probably been occupied for centuries.

The Forum was built up relatively quickly. An assembly area of circular shape, comparable to Greek places for political assemblies, was created.³ Facing the Comitium, a building that can be interpreted as the first curia, the meeting place of the Senate, was constructed c. 600 in stone. Around 580 the first stone-built shrine followed in the Comitium. Here, an inscribed five-sided block (*cippus*) has been found, containing one of the earliest Latin texts, a regulation pertaining to a king (*regei [sacrorum?]*).⁴ The foundation deposit beneath this stone includes a fragment of an Attic black-figure vase, dated to c. 575–550, showing Hephaestus, the Greek smith-god, riding a mule. This might point to the identification of the structure as a shrine for the god Vulcan, a Volcanal, an impressive indicator of the material and conceptual presence of Greek culture and religion at the very beginning of Roman religion.⁵ Another early building marks the southern boundary of the Forum area; the name later applied to this building, Regia, “Royal Palace,” might suggest that this cult center was reserved at the earliest stage for the *rex sacrorum* and the *pontifex maximus*.⁶ Also around 580 the earliest full-fledged podium temple was built on the northern edge of the Forum Boarium, the cattle market near the bank of the Tiber, the nucleus of the (much?) later double sanctuary of Fortuna and Mater Matuta. By the mid-sixth century the temple was decorated with terra-cottas of Greek Heracles and Minerva.⁷ In the Forum, the (later) “House of the Vestals” (*atrium Vestae*) was one of the first stone buildings.⁸ Religious monumentalization reached its first climax with the construction of the temple on the Capitol. Completed at the end of the sixth century, it had a base measuring 61 x 55 meters and must have been one of the largest temples of its time in the entire Mediterranean area. Because of its size, visibility, and choice of deities, the sanctuary was indicative of the culture dominating the Eastern Mediterranean and present in Italy in places like Gravisca or Pyrgi, namely that of the Greeks. The temple was dedicated to Iuppiter Optimus Maximus (Jove the Best and Greatest), Iuno, and Minerva, and competed with the largest Greek sanctuaries in places like Athens,

Corinth, and Olympia (Athena, Hera, Zeus). The investment in the quality of the terracotta statuary points to the same intention.⁹ The temple of the Dioscuri, dedicated in the Forum at the beginning of the fifth century, was smaller, but its foundations were nonetheless impressive, reaching a breadth of c. 29 meters and a depth of c. 39 meters.¹⁰ A new wave of monumental additions to the city center had to wait for the new political formation at the end of the fourth century.

The extraordinary size of the city by the end of the sixth century, forming a capital of perhaps 30,000 inhabitants, presupposes economic success and regional military expansion. Economic success is attested by the traces of Etruscan and Greek presence remaining in the Forum Boarium, mentioned above. Rome's growing stature as a regional military power is indicated by the text of a treaty, preserved by the Greek historian Polybios, who wrote in the middle of the second century to explain to his fellow Greeks Rome's rise to world empire.¹¹ The treaty was arranged between Rome, the regional power, and the Carthaginians, by the end of the sixth century. The latter, descendants of the Phoenicians, who had been sailing the Mediterranean since the late second millennium, not only dominated Sicily and the Western Mediterranean, but were extensively present on the coasts of central Italy, too. The Punic and Etruscan texts on the gold tablets from Pyrgi reveal that the Carthaginians maintained a cult of Astarte in that town, a mere fifty kilometers from Rome.¹²

Literary tradition as it was preserved and betimes invented by historians of the late second century and after provides a detailed, even hyperdetailed record of early Roman history. Beyond such traditions as could have been attached to and supported by institutional patterns, temples, laws, and genealogical narratives—and hence, for which we can postulate some reasonable mechanism for the transmission of knowledge—skepticism must be acute. Nevertheless, a rough sketch of the political developments of the sixth to fourth centuries is possible. The period of kingship (partly of Etruscan origins) was ended by 509 and replaced by a system of aristocratic government that allotted to assemblies of Roman citizens the power to distinguish between different candidates, especially for the highest office of two annual consuls, and to give consent to “laws.” As regards domestic politics, the literary tradition narrates above all a conflict between a “patrician” nobility (that might have taken shape only in the transition from monarchy) and a new “plebeian” elite: contingent resolutions in this conflict led to specific institutional changes that either co-opted the nonpatrician elite into existing

structures of public authority or accorded status to plebeian institutions kindred to that possessed by institutions of the whole; examples of such changes would include experiments in multiple rulership—namely consular tribunes—and full plebeian participation in the consulate. This process closed only around the turn of the third century, with laws on the opening of priesthoods to plebeian candidates (*lex Ogulnia*) and the acceptance of the binding force of plebiscites (*lex Hortensia*). Finally, laws were codified by the mid-fifth century, even if the (now fragmentary) text of the so-called Twelve Tables was stabilized only by the commentaries of the second century.

Regionally, the capture of the Etruscan town of Veii a mere fifteen kilometers from Rome at the beginning of the fourth century and the sack of Rome by the Gauls shortly afterward indicate military vicissitudes. It was rather the decisive defeat of the Latin League in the “Latin Wars” (340–338) that marked the beginning of Roman hegemony over central Italy. With that, the Latin League was dissolved, and the Latins were incorporated into the Roman community. The hegemony of Rome over its neighbors was then expanded to the whole of the peninsula in the centuries to come.

Approaching Early Roman Religion

Interest in early Rome is probably as old as the city. Roman mythological narratives express an intensive interest in the city, taking the form of aetiological myth as well as narratives about formative norms and values that eventually assumed the form of “history.” The universalizing—temporally and geographically—grid of Greek and Hellenistic mythology and history was known at Rome as far back as we have any evidence that could bear upon the issue. Nonetheless, as a framework utilized by Romans for situating themselves in the Mediterranean world, it was embraced only from the third century.¹³ From this time onward, efforts in this direction took the form of Greek “historiography,” which is to say, both the literary form and the language in which it was written were Greek. Latin became the language of historical narrative in the second century. Our, and indeed already the imperial, view on early Roman history is dominated by writers of the late Republic and Augustan age—Cicero, Livy, Vergil, the Greek Dionysios of Halikarnassos—who took part in processes of canonization as well as criticism. In narrating the deeds of the first kings, Romulus and Numa, these authors planted the seeds of both civil war and empire: the killing of Romulus’s

brother Remus anticipated later civil strife; the binding of expansion and ecumenical recruitment even from the foundation laid the seeds for empire.

Early Greek attempts to integrate the ascendant city of Rome into their mythological network were not always easily received. Ancestry from Troy, advocated already by the Greek historian Timaos of Sicilian Tauromenion by the beginning of the third century, was not enthusiastically embraced at Rome before the first century. Then, however, the story of the fugitive Trojan prince Aeneas moved into the heart of Roman self-conceptualization. Notwithstanding the massive impact of Greek culture in all areas connected with writing, Roman authors tended to minimize this factor. Instead they stressed differences, despite common ancestry. Rome's massive reception of Greek culture and religion, whether received directly from Magna Graecia, namely, the Greek settlements of southern Italy and Sicily, or indirectly via the Etruscans or Campanians, is not adequately represented in the literary tradition, for reasons that will become clearer in later chapters.¹⁴ Archaeology demonstrates Greek presence in the temples of the sixth century (as shown above), as well as, for example, the presence of Dionysian imagery in fourth- and third-century Rome.¹⁵

Given the enormous prominence of religion and religious change in their time, the interest in religion of the authors so far named is understandable. Indeed, we may trace this interest as far at least as Polybios. A Greek statesman and historian who in the third quarter of the second century tried to explain Rome's ascension to world empire to his Greek contemporaries, a rise to power that they had all witnessed, but whose suddenness nonetheless demanded explanation, Polybios had identified Roman piety, which he characterized as superstition, as a central factor in Rome's military success.

Because much of our knowledge about earlier Roman religion rests on these texts—or, as Christopher Smith put it, because “the evidence we have for Roman religion is often ancient interpretation”¹⁶—we must commence by studying the concept of religion these authors entertain. First, it is important to note that they had no coherent concept of “religion.” The existence of the gods and their character, that is, their stance toward humans, were a matter of natural philosophy: physics rather than “metaphysics” or “philosophy of religion” as we would say. Because the existence of the gods was taken for granted, “piety” (*pietas*) was held as natural and resulted in what could be termed *religio*: a sense of obligation, the idea that honors should be paid to the gods or to a certain immortal god.¹⁷ These honors took the form of temples, rituals (*sacra*), and specialists charged to care for these (*sacerdotes*). *Cultus* might occasionally be used as an umbrella term. Hence epiphanies

(critically reviewed) and divination, the foundations of temples, public rituals, and the foundation and changes in the public priesthoods gained the interest of writers, with special emphasis to ad hoc rites. Exceptional rites in times of crisis gave the opportunity to comment on participation and even on individual ritual activities, an aspect invisible elsewhere. Details of cult, theological speculation, routine rituals, and the daily running of sanctuaries do not figure in the literary tradition. Votive deposits and burial practices, so prominent in the archaeological record, did not enter the tradition of textually transmitted knowledge. More is learned there about the financing of cult than about reflection on divinity, more about institutionalized than embedded or diffused religion.

Given the available evidence, it seems appropriate to adopt a substantivist, or better, relational definition of “religion,” tying its usage to cultural practices and systems of signs that refer to “gods,” which is itself a class of religious signs comprising both names and images. “Religion” as used in the following refers to an ensemble of practices, institutions, habits, and beliefs, of which no internal coherence or consistence is to be expected, and none is here sought. This definition may suffice because the ambition of this work is to bring the place of religious communication within the wider spectrum of communication and institutions in this early society into relief, for purposes of comparison with the later periods.

Finally, both emic and etic perspectives on religious competences are informed by gender and social order. That said, the major competences enjoyed by Roman women in the late Republic,¹⁸ matrons in particular, were not systematically retrojected by our late sources into the earlier period. Female religious activities were thought to be concentrated on the Vestals. In respect to gender, therefore, neither a robust history nor even a comparison between archaic and late republican religion is possible. It was the contrast between patricians and plebeians that for them dominated the reconstruction of early religion.¹⁹ In the early period, activities ranging from the right to perform divination in the form of auspices (the observing of birds, lightning, and so forth) to membership in the priestly colleges, and hence to their role in communicating with the gods lay exclusively with the patricians. It must be stressed that the Ogulnian law in 300, which opened up religious offices to nonpatricians, did not diminish the number of patrician priests but simply added plebeian pontiffs and augurs.²⁰

Modern scholars have often sought to understand Roman society in light of the various face-to-face societies treated in detail by the classics of twentieth-century anthropology. It is thus seen as constituted by age groups,

all individuals of which are together subjected to initiation rituals, and as a community whose economic and social activities are granted rhythm by a common and detailed calendar.²¹ I would not wish to deny the notion of “initiation” altogether, but its utility in respect to Rome is at best analogical, and then only if applied to (self-appointed or aristocratically defined) representatives of an age group in a city of some twenty or forty thousand inhabitants.

Cult Sites

Developmental models always risk teleology. A study of rationalization is no exception. The risks with respect to Rome are compounded by two factors. First, evidence for the history of Rome is exceptional, if late. Second, Romanization, in a sociopolitical as well as a cultural sense, seems to have been an irresistible force. Certainly, whatever the causes and practices that furthered it, their effects were heightened by empire.

Yet inscriptional evidence tells us not only about the flowering of other Italian languages into the first century, but of complex and diverging ritual systems. The Roman solar calendar, in use at Rome since the late fourth century, was employed neither by neighboring Latin townships nor by the Etruscan sacrificial calendar of the *liber linteus* (“Agram mummy”).²² By the end of the second century, Latin cities like Praeneste or Tibur could still engage in architectural rivalry with Roman temple sites. Some decades later, the allies of the Marsian war imagined an Italian future without Roman hegemony. The fact that the direction of cultural transfer is often far from clear could—positively—be taken as an indicator of a region characterized by intensive cultural exchange. In the following paragraphs some ritual and organizational features of early Roman religion are reviewed within their regional context.

Burial practice is an important index, as it is an archaeologically well-documented outcome of a complex ritual, as well as a mechanism by which material culture was preserved for later inquiry. Its religious importance (in the substantivist sense defined above) is more difficult to assess. Although rituals addressed to deities might accompany burials, there is hardly any evidence to include burial within Roman religious practices. Archaeologically speaking, burial attests to individual religious affiliation only infrequently; for instance, at Rome, inhumation and cremation coexisted for centuries, preferences changing again and again. The concept of the *Di Manes*, the

“good gods” who embody the dead, did not appear regularly on tombstones before imperial times. Yet, for the poorly attested society that forms the subject of this chapter, this concept provides some key evidence. Most significant is the change in burial practice throughout Latium and Etruria during the sixth and fifth centuries. The Orientalizing period (c. 730–630) had produced a number of luxury tombs, princely burials with highly valuable and prestigious objects in sites around Rome (Praeneste, Ficana, Castel di Decima), though (so far) not in Rome itself.²³ Social power had offered the possibility of acquiring wealth and long-distance contacts; such goods and contacts served to further prestige. The following period, characterized at Rome by urbanization and monumentalization—processes, however, that happened earlier in some Etruscan places—witnessed a substantial decline in number and quality of grave goods. In all likelihood, the wealth that might have been spent on ostentatious funerals during this period was instead lavished on “prospective” public display, that is, on aristocratic competition in the form of banquets and entertainments or the building of palace-like houses in stone masonry, rather than on “retrospective” treasure assigned privately to the dead.²⁴ In the long run this would help to create urban centers and public space, and to invest in the latter.

Some cult sites have already been listed for the earliest period. It is important to remember that a sanctuary need not contain a temple building. Open spaces could focus on an altar, and altars did not need to be constructed in stone. A number of votive deposits indicate such places. Such a pit—used either to deposit votive offerings directly or on occasion filled all at once, when a larger number of offerings had to be removed from the premises—allows archaeological identification of a sanctuary. In the city of Rome, such deposits preceded the oldest temple at San Omobono.²⁵ They were widespread in (and beyond) Italy and frequent in Rome’s surroundings. Regionally more characteristic are human—often female—terra-cotta statuettes. At times these statues approached life size, as in Lavinium from the early fifth century onward. Likewise common were heads and busts from the sixth century on and anatomical votives from the fourth century onward. This tradition was supplemented in practice—in the material record—by anatomical votives associated with the Greek cult of Asclepius. Overall, such representations of parts of the body remained characteristic of votive practice down to the first century.²⁶

The practice of temple building was shared by Rome and other Etruscan places from the second half of the sixth century onward. A high podium gave

access on one side only, the other sides having neither steps nor wall openings. This base was completed by a building dominated by wooden columns and roof constructions decorated with colorful terra-cotta reliefs. Such a construction clearly marked boundaries of everyday life and set off sacred space.²⁷ Yet it was not restricted to housing a cult statue (besides the statues decorating the tympanon and the roof). A threefold cella at the back of the building offered at least two rooms for different types of activities and does not indicate the veneration of a triad of deities; the rooms of the high podium could likewise be put to different uses. Storage and shop functions of the basement would be completed by storage functions, political assemblies, banquets, and ritual activities above, as architectural forms and later practice suggest.²⁸ “Religion” offered through the form of the temple a defined and public space for different modes of communication.

Our knowledge of cult places and temples at Rome is limited: chance archaeological finds supplement a literary tradition that might be reliable in the sanctuaries that it names, but is in any event hardly complete, even on its own terms. Urban—though not necessarily public—sanctuaries of the period down to the last Latin Wars (340–338) include Iuppiter Optimus Maximus (with Iuno and Minerva) and Iuppiter Feretrius, and in 344 Iuno Moneta on the Capitol hill (resp. in the Arx); Volcanus, Vesta, Saturnus, and Castor in the Forum; the Lupercal and altars for the Carmentae on the slopes of the Palatine; Fortuna and Mater Matuta in the Forum Boarium (San Omobono), and the altar to Hercules nearby; Mercury, Consus (altar), and the “plebeian triad” Ceres, Liber, and Libera in or above the circus valley; Diana, Minerva, and Iuno Regina on the Aventine; Quirinus, Dius Fidius (Semo Sancus), and unidentified votive deposits at Santa Maria della Vittoria and San Vitale on the Quirinal; Iuno Lucina (first a *lucus*) and Minerva Medica on the Esquiline; and again a cult place characterized by a votive deposit close to the later Colosseum.²⁹ Mars had an altar in the Campus Martius and later a temple directly outside the Porta Capena (388); Fors Fortuna in Trastevere.

The founding of nearly fifty new temples in the century following the Latin Wars³⁰ would seem in itself a clear indicator of accelerated change and likewise of development in the religious and social implications of the act of temple-building and in the communicative functions of these temples. The list comprises a heterogeneous ensemble. Cult places dominated by votive deposits and healing cults (Carmentae, Minerva Medica) mix with cults organized on the principle of exclusion of the other sex (Mater Matuta, Vesta,

Hercules) or for special groups (plebeians, Vesta, Fors Fortuna?). Special spatial arrangements, a grotto at the Lupercal, a well for Anna Perenna³¹ and the Carmentae, do without temple buildings. Some cults clearly reflect import (the Capitoline triad, Volcanus, Castor, Fortuna, Hercules, Diana, Iuno Regina). These importations seem to be the result of decisions by the government rather than by immigrant groups. Overall, notionally Greek cults and prominent cults of neighboring towns dominate this group. What is more, apart from an important emphasis on caring for personal needs, religious practices at the level of monumental building, interventions in the urban fabric, and the selection of new gods for worship in those sites reflect an elite's translocal communication: importing statues of gods or ritual practices into Rome amounted to a form of recognition directed toward the regions of their origin.

The communicative dimension is also important for the forms of the representation of the divine. Ritual communication between humans and deities that are not as present, visible, and touchable as human participants in face-to-face communication requires some manner of reinforcement to ensure successful transmitting of messages and to make a positive outcome of the communicative effort more probable. Archaeological findings and later literary descriptions suggest that rituals at Rome shared the spectrum of forms in Mediterranean societies: vegetable and animal sacrifice, libations, votives, with many variations according to material resources, economy, diets, and artisanship. As mentioned before, in votive offerings, representation of the human supplicant was important. We do not know to what degree the homogeneity resulting from mass production was overcome by efforts at individuation or particularization by the addition of painting. Some differentiation was made in terms of sex and, at least roughly, life phase: baby, youth, adult. I tend to interpret this practice primarily in terms of the perpetuation of communication: the temporary, difficult, and uncertain communication with the divine as enacted and defined by visiting a shrine is made to transcend the limitations of time by permanently representing the human actor in a place closer or more visible to the deity. The votive might be deposited directly into a trench or pit. However, archaeologically identified deposits might also be of secondary origin—the results of periodic removal of votives from visible space, thus leading to new ensembles in the deposit space.³²

Apart from the representation of a deity's presence and power by a fenced-off area, the statuary representation of the deity is another—and not mutually exclusive—strategy to improve ritual communication. Such

a strategy—not supplanting but supplementing the representation of humans—was present at Rome at least from the late sixth century onward. Life-size or nearly life-size painted terra-cotta statues dominated the period analyzed here,³³ more and more rivaled by metal and marble statues later on. Occasionally, wooden statues were used. Such permanent epiphanies tended to be housed in temple buildings, marking the presence of the deity as well as restricting access.³⁴ Ongoing processes of identification of those representations, through attributes and imagery from narratives on the architecture, regularly raised among the ancients the problem of the gods' own translocal identities and thus encouraged the production of narratives of transfer or spontaneous movement.

In a historical perspective, it is important to remember that, for literary texts as for temples, the reconstruction of potential “meanings” cannot be restricted to the moment of creation but has to cover the long period of usage (and maybe different usages), too.³⁵ Thus, even as the producers, initiators, and actual builders of temples in this period participated in rivalries and networks of exchange at a translocal level—some individuals were no doubt drawn from other towns—so, too, the users and spectators of these built complexes were probably themselves engaged in such rivalries and translocal relationships. In early Rome, important nodes in these networks of exchange would have included Greek and Carthaginian/Punic as well as Etruscan and Latin culture and localities. In many Latin towns, as mentioned above in regard to the so-called princely tombs, artistic techniques were at least as developed as they were at Rome. Apart from the terra-cotta fragments from the San Omobono finds, the terra-cotta acroter statue of Apollo from the Portonaccio temple at Veii and figures from the larger temple of Pyrgi (both in the Museum of the Villa Giulia, Rome) and the statue of Iuno Sospita from Lanuvium give an impression of what the statues in the Capitoline temple might have looked like.

Ritual and Ritual Specialists

Without a reliable textual tradition—the nonfictitious sources of the late republican and Augustan authors that inform our reconstruction hardly antedate the second century or, in the case of Fabius Pictor, the late third century—ritual action is even more difficult to reconstruct than its material ingredients. First-century narratives about the institution of cults by Romulus

and Numa are as unreliable as twentieth-century projections of the calendar of festivals (*fasti*) into the regal period. In fact, the list of festivals was codified in the calendar of the late fourth century and is known from first-century copies only.³⁶ Evidence from Etruscan tombs, for instance the Tomba delle Bighe at Tarquinia or the Tomba della Scimmia at Chiusi, suggests the existence of athletic competitions and processional rites in (at least some) Etruscan towns from the sixth or even seventh century onward.³⁷ Reliefs and vase paintings from the sixth and fifth centuries, for example an amphora from Ponte di Micali, dated 520–510,³⁸ confirm the existence of games that included different types of competitions and, at least by the end of the sixth century, processions. Thus the later Roman narratives about the introduction of circus games by the Tarquins,³⁹ that is, the Etruscan kings of Rome, and of *ludi scaenici* in the middle of the fourth century, also from Etruria,⁴⁰ may reflect an important reality, however distorted aetiological tales of one-time culture transfers no doubt are.⁴¹ What is more, those Roman narratives find an echo in the picture of early Rome provided by the Greek Dionysios of Halikarnassos, who situates the institution of circus processions at Rome by the beginning of the fifth century.⁴² Certainly the neighboring town of Veii is credited for comparable competitions in the sixth century.⁴³ There can be no doubt about the “international” character of such games, mirroring the Greek institution and involving members of middle Italian elites. It should be added that gladiatorial games, probably known in Etruria for centuries, were introduced into Roman funeral cult practices only by 264.⁴⁴

Roman tradition attributed the institutionalization of several priest-hoods to the first kings. In this tradition—which has had a significant modern reception—the Roman polity is interpreted as the king’s household writ large. As a family’s cult is focused on the hearth, so the story goes, the king’s daughters (anticipating the priesthood of the Vestal Virgins) care for the city’s hearth (i.e., the fire in the “House of Vesta”).⁴⁵ In this model, ritual tasks that might have been the duty of the king—notwithstanding the lack of any evidence for such—were in the postmonarchic state performed by the supreme pontiff (*pontifex maximus*) and the “king of the sacrifices” (*rex sacrorum*). No conclusion has been reached so far as to whether the *rex sacrorum* was heir to the sacral duties of the king,⁴⁶ later to be overshadowed by the *pontifex maximus*, or whether a *rex sacrorum* existed already in regal times in order to fulfill at least partly the religious duties of the king, whose legal competences later fell to the pontiffs (who might have antedated the Republic, too). Roman elaborations of this theory, which is

to say, the emic tradition, clearly followed the first route.⁴⁷ That said, attempts to understand Roman state religion as having its origin in a royal household have not proven fruitful.

There is no reliable evidence for Roman priests before the fifth and especially the fourth centuries.⁴⁸ Here, Italian evidence is not helpful, either. Evidence for the divinatory specialists called *haruspices* in Latin sources, and *netšvis* in Etruscan texts,⁴⁹ does not antedate the fifth century, nor does the evidence for the priestly role of *cipen* or *cepen* assumed by magistrates.⁵⁰ Priesthoods from Italian townships, which at times exhibit striking similarities to Roman institutions, belong to late republican and imperial times; they might have been the result of early exchange processes, in which Rome may have played the role of donor or recipient. The evidence, however, does not offer any clues to the chronology of such exchanges. As the differentiated Roman priesthood of the late Republic need not be postulated for archaic Rome, the question of how to imagine priests in the regal period could be broken down to a limited set of problems.

Specialists in divination (“seers” with a number of different techniques) are attested in a number of Mediterranean societies. Latin tradition developed the figure of the charismatic seer, embodied in the augur Attus Navius, in structural opposition to political power in the shape of king Tarquin.⁵¹ Such figures, whether attacked (the Marcius or Marcii of the third century) or derided (the *harioli*, “charlatans” of the first century), probably existed throughout Roman history. The high prestige of the college of augurs in the early Republic strongly suggests their institutionalization in some form during the regal period. An early institutionalization likewise renders probable the restriction of this role to patricians by the end of the monarchy. Certainly the right to the auspices seems to have been a kernel of patrician self-definition.⁵²

The existence of an unknown number of religious specialists (not necessarily all male) caring for individual cults and probably cult places can be reasonably assumed. Their name, *flamen*, points to a much older institutional pattern. In contrast to the augurs or pontiffs, *flamines* tended to be appointed at a very young age, if third- and second-century evidence can be extrapolated. Groups of aristocratic youths, which is to say, members of an elite close to the king, might well have had the duty to care for some very important cults. The Vestal Virgins would fit such a pattern, as would the Salii and the poorly attested Salian virgins in the cults of Vesta and Mars.⁵³ What is more, if the initiation to banqueting as offered by the Salian priests in the republican period was in fact given to an organized “public” group,⁵⁴ this might

well have been related to “the disappearance at the end of the sixth century of terracotta friezes depicting banqueting scenes” that, it has been suggested, reflects “the disappearance of the private banquet as well, as part of the realignment of social affairs consequent on the fall of the last king.”⁵⁵

Associations caring for other cults probably sprang up and died. We have no idea of the origins of such groups as the Mercuriales, Arval Brethren, or Sodales Titii, all securely attested at the end of the Republic.⁵⁶ It cannot be ruled out that the latter went back to the regal period, as was thought in Augustan times.⁵⁷ Over a very long period, as it seems, some of these groups probably came to be regarded as “public priests” (*sacerdotes publici*) by the time of the late Republic. That said, before the Augustan revival, most of these were socially and politically without importance. It bears emphasis that the associations most prominent in the evidentiary record, namely the Salii and Vestales, existed outside the political realm proper by reasons of sex or age.

Much prestige was given to the pontiffs. There is considerable evidence for patterns of interaction between them and other priesthoods, indeed, of a limited supervisory role over them. This includes not only the appointing or punishing of *flamines* or Vestals by the supreme pontiff, but also ritual interaction with the Salii⁵⁸ and with the Luperi.⁵⁹ There were also many occasions where they acted together with *flamines* or Vestals.⁶⁰ The pontiffs, represented by the *pontifex maximus*,⁶¹ presided over an ancient type of assembly of the curiae, the so-called *comitia calata*, which was charged with the continuation of families and their cults.⁶² In his important responsibility for regulation of the calendar, the *rex sacrorum* is paired with a “minor” pontiff on the Calends⁶³ or with the pontiffs on the “Tubilustrium.”⁶⁴ The pontiffs as a prominent public priesthood, hence, were the result of a conscious effort at religious centralization, presupposing the existence of both the *comitia centuriata* (in order to free the *comitia (curiata) calata* for their presidency) and a *rex sacrorum*, which might have been an office existing alongside the (political) king already during the late monarchy. The easiest hypothesis would be to attribute such a step to a major restructuring of society such as might be supposed to have occurred at the termination of the monarchy.⁶⁵ If there had been people called “pontiffs” before, we need not suppose that their role had been comparable. It should be stressed that all the other colleges were modeled on the form of the pontifical college, without necessarily replicating the authority structures obtaining within it. In the case of the augural college, for example, its eldest member served as *augur maximus* but

lacked specific authority; and any institutional role for the college was historically far less important than the power wielded by individual augurs.⁶⁶

Calendars structure economic, political, and ritual activities. Here the Etruscan *Tabula Capuana*, a text of some 4,000 letters, dating to the beginning of the fifth century, offers comparative material.⁶⁷ This fragmentary list of rituals, summarily described, corroborates the Roman antiquarian claim that the structuring of the months by the Ides was Etruscan; it shows a system of weeklike periods (though not necessarily of constant length) from full moon to full moon: *isveita—celuta—tiniana—a perta* (institutionally corresponding to Latin Idus—Tubilustrium—Kalendae—Nonae). At Rome, these days concentrate routine cultic activities of the *rex* and *regina sacrorum*, the Flamen Dialis (priest of Iuppiter), the pontiffs, and Tubicines (trumpeters), engaging in rituals addressed to Iuppiter, Iuno, and the moon, and adapting this civic rhythm to the lunations, as is typical for a lunar calendar. It was only with the reforms of Appius Claudius Caecus and Gnaeus Flavius in the final years of the fourth century that—by codifying the calendar—months of fixed length were introduced. As a result, the months ceased to correspond to the lunar phases; the result was a pure solar calendar, the basis of today's Julio-Gregorian calendar.⁶⁸

Incipient Change

The early Republic was characterized by internal social and political conflicts. Later Roman tradition resolved the complexity of whatever knowledge and tradition it possessed into narratives structured around a dichotomy of patricians and plebeians. In this way, enormously complex historical changes, comprising processes of institutionalization and codification (e.g., the writing of the so-called Twelve Tables, c. 450), of growing social differentiation, and of the establishment of clan groups, *gentes*, as structures to ensure inheritance within long-lived social structures larger than families, to name but three, were understood as having been designed to distribute political and priestly positions more evenly, thus reducing strife and frustration.⁶⁹ The specifics of the Roman narrative to one side, it is clear that by the second half of the fourth century, a unified elite had evolved that did not remove the distinction of patricians and plebeians but nonetheless gave equal access to offices to each group. The passing of the *lex Ogulnia* in 300 opened even the priestly colleges of the augurs and pontiffs to plebeians. More generally, under the

pressure of an ideology of citizenship that was necessary for successful warfare and attributed powers of decision to public assemblies, an ethos had developed that oriented the drive for distinction toward “publicly” useful activities and thus enabled, or perhaps furthered, the drive within Roman culture toward external military success.⁷⁰

Social developments would have affected public ritual, too. Hypothetically, an important change in the Roman *ludi* (games) could thus be explained. If aristocratic competition was restricted to publicly useful fields such as warfare, athletic competition as a means for achieving social distinction might have been scorned. To begin with, the organization of games was monopolized by patrician priests, who staged chariot races in March (Equirria), August (Consualia), or October (Equus October, “October Horse”), but the outcome of the games did not bring prestige to the winners. From this generalization, the “Roman” and the “Plebeian” Games, in September and November respectively, should probably be exempted, as also games organized by returning victors. Second, participation in athletic contests shifted from aristocratic youth to professional or local amusement, as indicated by the *ludi Capitolini* in October. Finally, the organization of the games—now multiplied and connected with different stages of a magistrate’s career—became a field of rivalry and distinction in itself. From this time on, games were concentrated at Rome, offering financial opportunities for foreign professionals and drawing spectators from its large hinterland,⁷¹ but restricting the field of elite competition to the splendors of organization. This process will be analyzed more closely in the next chapter.

The situation should not be regarded as stable, but—for a long time—as an ever shifting equilibrium. If prestigious display and consumption in the form of grave goods had been widely eliminated by the fifth century, gentilian power had been publicly stressed by the building of monumental houses from the same time onward. By the end of the fourth century, temple building by victorious generals turned into a highly competitive field, even if many of them opted for prestigious consumption in the form of victory games (*ludi votivi*).⁷² Such activities—and probably likewise the return of a victor into a city and his attempts at the display of statues of himself⁷³—were subjected to public control by ritualization and senatorial decisions. Fighting the ever-heightened social differentiation that resulted from military expansion and direct contact with the cultural and political sophistication of the Hellenistic world became an agenda for centuries. This fight continued to reshape and expand Roman religion, too, for centuries to come.⁷⁴

Chapter 2

Institutionalizing and Ordering Public Communication

This chapter will substantiate the claim made earlier that religion is an important and growing field in public communication. The analysis undertaken here seeks to document the extent and boundaries of processes of rationalization. I concentrate on systematization as a historical process and form of rationalization. It is seen above all in the growing number of explicit norms regulating—and hence institutionalizing—occasions of public, and specifically religious, communication. At every stage of the planning for such occasions, notes were taken and protocols written by senators and pontiffs—crucially, not by the magistrates who organized the games but by the performing companies.¹ The ease of this cooperation between Roman magistrates and foreign professionals in the organization of ritual, already well developed by the middle of the third century, is one of the astonishing features of instrumental rationalization. In order to please the god, one might say, major shifts in the structure of public communication were accepted, whereas shifts in political participation were already a matter of much domestic conflict by the beginning of the century.

When we regard developments in Rome from the end of the fourth century forward, we are already dealing with a complex society that must have had a multifaceted system of communicative spaces, to which upper-class banqueting belonged,² as well as professional or neighborhood clubs,³ Dionysian cultic clubs,⁴ patrician or plebeian special organizations, and family or client associations.⁵ With the gradual leveling of the patrician and plebeian classes, a process observed in the historical record primarily in connection with the Licinian-Sextian laws and the patrician-plebeian consulship, a unified aristocracy came into being in the second half of the fourth century.

Its formulation of values and in particular its orientation to external affairs—aristocratic competition being now channeled into intensive and extensive imperialist action—led to increased dynamism in overall processes of historical change,⁶ which expressed itself in rapid expansion, increasing internal social differentiation, and rising affluence. With the First Punic War (264–241), Rome rose from a regional power to dominance of the Mediterranean. That role was challenged in the Second Punic War (218–202), but the challenge failed. This process constitutes the framework within which the specific changes analyzed below occurred.

The next three chapters will examine in detail changes in the communicative spaces and functions filled by rituals. As we will see, we are confronted not only with rituals being gradually or suddenly modified. Additionally—and more importantly—we witness their proliferation, the creation of new rituals. Such processes of ritualization,⁷ which is to say, of forcing actions into stable form and public space, operated as a means of social control, and we will eventually have to take up the analysis of ritual in just those terms. Yet the involvement of gods complicated the functioning of ritual as a mechanism of control. Religion, in other words, could hide social power, but any such obfuscation could also result in softening and questioning it. At the end of that process—not at the beginning—it was important for some ancient observers and agents to identify religion as a distinct sphere or phenomenon. For now, however, the accent shall fall on the notion of the public and developments outside religious rituals.

The Senate

The center of political communication was the Senate, an assembly of the three hundred leading men—old men, if one believes the ancient derivation of the name from *senes*. Although the institution was old, it gained the stability that made it the focus of republican decision-making processes and the efficient counterpart of ever more powerful magistrates around the year 300. This stability was provided by rules of membership that granted lifelong place to former officeholders of particular rank, which in turn produced a social structure in which the principle of seniority completely dominated the regulation of the right to speak and the order in which votes were cast.⁸

The centralization of the public life of the upper classes in this committee is connected in the textual tradition with the censorship of Ap. Claudius

Caecus in 312, who consistently applied the rules for admission to the Senate that had developed previously. His resistance to the expansion of the priestly colleges according to proportional representation of patricians and plebeians gives rise to the suspicion that alternatively institutionalized “publics” were feared. The publication of a list of days suitable for court sessions (*fasti*; see Chapter 7), which was among the priestly duties of the pontifex, was probably intended to serve the same purpose.⁹ General availability of the information reduced the influence of wide-ranging institutions. Writing is the medium of publication.

Another early innovative political use of writing is connected with the name of Appius Claudius. His speech opposing peace with Pyrrhos in 280 has long been accepted as the oldest surviving Roman speech.¹⁰ This is more than a bit of cultural history trivia. A quarter of a century after his consulship (307), Claudius must have been one of the longest-serving and highest-ranking senators. The written dissemination of his speech—calling it a “private publication” would give a false impression of the number of copies in question—emphasized his disagreement with the outcome of the Senate’s deliberations, namely the decision to accept an offer of peace from the victor, Pyrrhos. The publication produced a “public,” no matter how small and diffused, which existed outside the norms of how senatorial consensus is reached. Without knowing the publication’s contents, it was not possible to discern whether Appius intended to bolster his arguments or his own person: what we see here is a break with tradition, but not a trend.¹¹

Probably in the following decades, the Roman *pontifices maximi* began not only to produce written minutes but also to publish excerpts of these on a whitewashed wooden board.¹² Documentary procedures in the Senate probably provided the precedent for such written minutes, but this remains speculation in view of our lack of knowledge of both types of text in this period. Again, “publication” is a term used advisedly, as we know neither the intended nor the actual readers. In fact, it may have been the gesture of publication—of assuming literacy and of addressing a public of undefined size—that was decisive: acting in public, in the form of addressing the public, ensured institutional independence and significance.

These acts of publication must be evaluated in light of the contemporary use of writing: the central political usage was in the preservation of official resolutions on bronze copies and placed to allow general access. This had been the case in the codification of the Twelve Tables. To what extent the later canonical text accurately reflects traditions of the fifth century or is the

result of a process of collection and commentary may remain here an open question.¹³ Over against this evidence for the currency of writing in public must be set the vastly greater evidence for viva voce communication. When a public audience was actually wanted, people were required to be present in high numbers. This is true of the “hundred man court,” which in historical times consisted of three people from each of the thirty-five Roman *tribus*,¹⁴ and also of the quorum of at least one hundred senators stipulated for the administrative processes outlined in the Senate’s resolution on the Bacchanalia.¹⁵

Public Assemblies

The *comitia* and *contiones* were both large public assemblies, even if participants formed only a minor percentage of the populace.¹⁶ Recent research in ancient history has made it clear that the complicated voting procedures of the *comitia* served to obscure the fact that the assembly did not play a significant role in legislative decision-making. (Elections were a separate issue.¹⁷) The magistrates leading the assembly put laws to the vote that already had the support of the Senate without further debate. The potential to reach a specific resolution was not being tested: the vote was a ritual that signaled basic consent. The main motive for participating in the assembly was probably the opportunity to play out one’s role as a part of the structured *populus Romanus*.¹⁸ The “arguments” supporting the law consisted of respect for the elected magistrate, the monitoring of the casting of votes by patrons, and the prior resolution of higher decision-making bodies.

In contrast, the *contiones* did have an advisory function and were dedicated to the presentation of candidates and the explanation of planned laws. The final decision was still open, and speakers were concerned to determine or produce specific preferences. The audience’s reaction to such alternatives was signaled orally. In addition, as Jean-Michel David has shown for the law courts, we must not neglect aspects of argumentation beyond the verbal.¹⁹ In court, demonstration of support by wearing mourning clothes, invocation of the status of one’s friends and the size of one’s clientele, the readiness with which social distance could be overcome through gestures of personal intimacy, self-abasement through a gesture of supplication:²⁰ these were all decisive factors in a competition in which the coherence of the arguments was only one level of evaluation.²¹ Alas, even if such maneuvers were passed down

as tips, they receive only minimal systematic treatment in textbooks on rhetoric. The rationalization of values—which type of behavior should be regarded as acceptable by all participating parties in court²²—remained fragmentary, limited by the interest in individual victims.

Rituals

Political assemblies were neither the most frequent nor the most attractive occasions for convening large numbers of people in Rome. Holidays and large rituals provided such opportunities far more often. It is precisely in this connection that we can observe the most significant changes in the period under consideration here. This applies first to the frequency of holidays. Commencing with the final years of the fourth century, a rash of temple building continues down through the third. These building projects were the occasion for some intense conflicts between the Senate and their sponsors, most of whom had gained wealth as generals. These building projects are also associated with huge dedicatory festivities and permanently institutionalized holidays on the anniversaries of their foundation. Specific cults gained in value through connection to games (*ludi*), a process that began especially in the second half of the third century. As we have seen, traditionally the games consisted of races and athletic competitions. Dances were also an ancient element of games, which were probably professionalized under Etruscan influence and augmented by background scenes and slapstick dialogue. Games including dramatic plays on a Greek model (*ludi scaenici*) were, according to later Roman self-image, a resumption of these earlier forms.²³ For the years 240 and 235 we have evidence of performances of plays by the first two dramatists whose names are known to us, namely the “half-Greek” Livius Andronicus, possibly from Tarentum, and Cn. Naevius, from Campania.²⁴

Within a few decades, there was an explosion of opportunities for dramatic performance, of both tragedies and comedies. By the end of the third century eleven,²⁵ and by the end of the second century around thirty, days for games had grown up out of the ritual framework of the *ludi Romani*.²⁶ The two canonical genres were, after a few initial attempts in 173, augmented by the establishment of the mime at the annual *ludi Florales*, which then marginalized the other dramatic genres in the imperial period.²⁷ The dramatic aspect increasingly overtook the circus-like aspect of the games.²⁸

Nor was this the extent of large-scale ritual. Triumphal processions and ad hoc games on the occasion of military victories were also celebrated in most years, not to mention holidays without games, such as the Saturnalia, which increased to three and then finally to five days, as well as events for expressing supplication or gratitude, the *supplicationes*, when people took part in banquets in old Roman temples.

When changes in “public” communication can be detected, they are found in connection with these rituals. Sacrifices and feasts celebrated in families or with neighbors were at the center of traditional popular holidays, in contrast to the “weekly” holidays of the Nundines or Calends, Nones, and Ides, which were often celebrated in alternating locations or outside the city center. This also applies to the Neptunalia, a sort of Feast of the Tabernacle, the Parentalia celebrated at graves, the Matronalia and Poplifugia in the Field of Mars, and the drinking contest in the cult of Anna Perenna on the banks of the Tiber, and similarly to the Parilia, the purificatory fire in April, while the Saturnalia in December were more of a domestic holiday. It is not possible to determine the degree of popularity of the old horse races of the Equirria or the Consualia or the Equus October.²⁹

The supplications initially followed this pattern.³⁰ As supplicatory or thanksgiving holidays they were initially crisis rituals that were intended to mobilize the entire population to visit the temple and celebrate in the streets. Such a ritualized state of emergency was a regular feature of warfare in the early second century. It offered an occasion to strengthen solidarity with ever more distant theaters (and actors) of war. By the middle of the first century the emphasis of the same ritual had changed. We do not know to what degree the twenty- and fifty-day thanksgiving holidays that were declared on the occasion of Caesar’s victory in Gaul could be differentiated from everyday life. The resolution declaring the holiday was certainly more easily enacted than the actual holiday, for which no public funding at all was made available. In any case, everyday life was synchronized with significant military victories in this manner, and the person in whose name the gods were being thanked was a topic of conversation throughout the city. Thus, I presume, the period produced and extended focusing of communication on one subject, namely a person, instead of intensive face-to-face interaction between participants.

The other type of ritual that gained in importance from the middle Republic onward is characterized by just the opposite of the popular festivals reviewed so far, namely precise spatial centralization of symbolic action. The

core elements of these rituals were processions (*pompae*) and the actual games. Typically, the procession began at a temple and ended at a circus. Even dramatic performances took place on improvised stages in the large circuses, including the Circus Maximus and, from the end of the third century, also the Circus Flaminius on the Campus Martius.³¹ While the actual ritual space—the path of the procession and the circus—could be used in various ways and thus remained architecturally underdetermined, it was framed by several means.³² A large number of temple buildings were concentrated in the area around the circuses, and the most important paths for processions to and from the Capitol and the Forum Romanum were lined by statues, columns, and victory arches. Thus a specific “public” space was created from the rather bland architecture of the areas of political assembly—*comitium*, *rostra*, *curia*—which was increasingly monumental and whose monumentalization worked to relate the success of the overall community to the achievement and glory of specific individuals. Statues built in honor of individual victors, and especially sacred buildings, served as primary media, so that the characteristics of the *ludi* and the *supplicationes* meet in their architectural expression.

How was communication carried out within this framework? The default stance is one of passivity. The Roman citizen found himself in the role of a spectator. This is true first of all for processions: taking part in the triumphal parade of Aemilius Paullus meant standing on the side of the street for three days and admiring the display of booty. The victorious soldiers could march in the procession, the senators could hail the parade and join it, but the center of attention belonged to the victor and his display of booty, both living and dead. Agents without citizenship dominated the *pompa circensis*. While the magistrate sponsoring the games and hierarchically organized Roman youth led the parade, chariot drivers, dancers, musicians, and clowns followed. Even the gods were mere Roman citizens. On the one hand they were taken along at the end of the procession. The sacrifice, when the procession had arrived at its goal, was dedicated to them. Primarily, however, they were spectators of the games and competitions following the procession. They had a front-row seat, so to speak, even if the games were not carried out in front of a temple.

The gods were therefore the target audience of the ritual, and the Roman spectators were only second-class spectators. The latter point is clearly indicated by the fact that, unlike in Greek festivities, general participation in sacrificial feasts was not the norm at Rome. Only in very rare exceptions did the public as a whole get anything to eat. The variously integrated *epula* were,

like the *lectisternia*, meals for the gods, in which specific groups of priests and the senators could participate.

Such multifaceted communication is typical of religious communication and should not be passed over too quickly. The games were sponsored as an effective means of alleviating tensions in relations with the gods and preventing further catastrophic military defeats or plagues. For this purpose the very best was just barely good enough. The developmental process that this ideological and social-material matrix impelled then demanded greater and greater extravagance overall, as well as the professionalization of the agents involved. Authors formed an official Roman club (*collegium poetarum*) in the second half of the third century, and even before that professional troupes of actors could be hired from the more intensely Hellenized areas of Italy. Similar processes of professionalization can be observed among the chariot drivers, even though evidence for a cult dedicated to the victors of chariot races can only be found in the imperial period. Scattered and mostly late sources for the late Republic reveal these professionals functioning as the groups to whom the spectators turned with their expressions of approval or disapproval.

I emphasize this point for a particular reason. In a recent study on gladiators,³³ Georges Ville has set in the foreground of historical inquiry interactions that took place within the audience, such as the observation of senators or the applauding or booing of individual senators within a space that was increasingly divided according to social status.³⁴ I would by no means deny the importance of these factors, but I find the assumption that secondary functions rather than primary intentions could explain the enormous proliferation of institutionalized “games” unsatisfactory. Beyond that, we must be mindful of the fact that the competitions, especially the chariot races, were the most successful element of the games in the long term. Chariot races completely dominated the games in the imperial period and into late antiquity. At a phenomenological level, we would have to say that their appeal probably arose not out of the unified opinion of the spectators but from differing preferences for specific drivers or parties. One could win points for supporting the favorite driver of one’s girlfriend, even if he was sure to lose. This is admittedly hypothetical, but one can imagine the satisfaction of proving one’s instinct and winning over against a patron’s bet.

The Content of Religious Communication

This leads us to the necessity of addressing the content of organized communication. The entire spectrum of Italic and Greek cultural production was

received at Rome, but the meaning of every object, and every form, was radically changed by their relocation. If we consider the display of statues and paintings in triumphal processions, for example, we observe that Greek statues and other “works of art” there had entertainment value, torn as they were from any functional context. This goes for Greek libraries as well. However, Romans did not remain passive recipients only but had their own Greek material, as it were, created for themselves.³⁵ Roman aristocrats were enthusiastic about the technique of bronze casting already at the end of the fourth century.³⁶ Nor did their appetite extend only to objects of art. Dramatic performances of every kind were translated or adapted and staged at festivals, including the Oscan Atellana, New Comedy, tragedies with topics from Greek mythology as well as, soon enough, Roman history. The latter, the Praetexta, was a genre destined to play a subordinate role, which mostly disappeared with the Republic.³⁷ The gods were thus offered more than just exotic animals as entertainment.

Surviving titles and texts from the late third century allow for a more precise view of their contents. Specific contemporary relevance or a close connection to the respective holiday does not at first view play any significant role. This differentiates this type of drama clearly from that of fifth-century Athenian theater. The titles and the few remaining fragments from the two earliest dramatists already mentioned in Rome, Livius Andronicus and Naevius, reveal mostly mythological material drawn from traditional Greek mythological cycles. The series of known titles of tragedies by Livius Andronicus are *Achilles*, *Aegistus*, *Ajax mastigophorus*, *Andromeda*, *Antiopa*, *Danae*, *Equos Troianus*, *Hermiona*, *Ino*, *Tereus*; for Naevius: *Aesiona*, *Danae*, *Equos Troianus*, *Hector proficiscens*, *Iphigenia*, *Lycurgos*. Naevius also staged plays with clearly Roman topics, such as *Clastidium sive Marcellus*, about a recent victory over the Celts, and a *Lupus* and *Romulus*. Thirty-five titles are known from Naevius’s numerous comedies, beginning alphabetically with *Acontizomenos*, *Agitatoria*, *Agryuntes*, *Appella*, *Ariolus*, *Astiologa*, *Carbonaria*, *Clamidia*, and *Colax*.³⁸ The surviving pieces by Plautus or Terence from the following decades confirm the impression left by these titles: plots are set in a Greek world, even when the problems they treat are clearly marked by Rome.³⁹ This mixture could become more Roman in the second century with comedies classified as *togatae* by Varro, but these did not achieve a lasting dominance.⁴⁰

How can we interpret these findings? The forms and objects of entertainment are ethnically marked in a multitude of ways. It must have been clear

to the majority of spectators that they were consuming Greek (in the broadest sense of the word) entertainment, products from a culture perceived as superior in this regard and therefore attractive. There is another side to this: Rome imported these products often enough against the will of their authors or makers. Art piracy and enslavement were central modes of cultural transfer, and the profits of war served to engage the best free theater troupes and artists.⁴¹ In most cases the entertainment was connected to the celebration or commemoration of a military victory.⁴² In all this, Rome presented itself as the center of the world.

And yet, Rome presented itself as the center of a world outside of Rome and older than Rome. That world was dominated by Greek narrative traditions, and it was above all Greek myth, with its gods moving about, its exiles founding cities, and its adventurous military expeditions, that gave the coastal cities of the Mediterranean a genealogy, a place in Greek history. Thus Rome was understood to have been founded, as Varro worked out on the basis of these traditions, four hundred and thirty years after the fall of Troy. That is where the dates 754/753 for the foundation of Rome came from; year 1 in the history of the city is a date from Greek history. At the same time, religion, and the gods, offered a framework to recenter Rome again. It is the gods with Roman names, not Zeus but Iuppiter, not Hera but Iuno, not Ares but Mars, who received a history, a genealogy, within the plays. Even the demanding and destructive god Dionysos of the *Lycurgos* was a god so native that his followers only a short time later, in 186, were suspected of being members of a mass movement to overthrow the state.⁴³

Here, in the genealogical ordering and in the working out of the dramatic character of the gods of Roman polytheism, a moment of theoretical rationalization can be detected. The systematization that commenced consolidation from this moment is more recognizable in other types of texts, such as Latin epic, which began with the same two authors. Its content was an “Odyssey” and a “Punic War,” which reach back to Troy and Aeneas. Another example is Roman historiography, which began in the same generation with the work of Fabius Pictor, written in Greek. Both genres were aimed at a mass audience. The epic was most probably recited at upper-class banquets.⁴⁴ Considering that the language of historiography was changed to Latin only in the second third of the second century, private reading is the most probable form for its reception. The exclusivity of the circulation and performance audience of these latter genres makes it clear that history lessons at Rome took place in the theater.⁴⁵

Comedy had a quite different goal and effect with its everyday plots. Here the problems of ordinary Roman people were played out, literally, in Greek costumes:⁴⁶ conflicts about love and money, the superior intelligence of dependent slaves, the laziness of rich heirs, the reckless abandon of soldiers enriched by booty. Thus it comes as no surprise that allusions to daily political life occurred in this context rather than in the tragedies,⁴⁷ and that these texts, rather than high tragedy, have survived. However, it was not local color but the universalization achieved here that was decisive. That may sound a bit much to attribute to performances that served primarily as light entertainment, but we must not forget that even as light entertainment, just as much as in the soothing of anger, the pieces had to fulfill the standards of graecified gods and were consciously artistic, written in the elevated language of the leading Roman families rather than in everyday Latin.⁴⁸

Within the period considered, religious rituals had gained a significant and growing share in public communication. The notion of *publicus*, as used to bring together the members of the nobility, was an expanding concept. This development changed the character of the religious field. When public and private interests clashed over the institutionalization of the cult of Liber Pater, it was not the establishment of private religious groups, but the public attention given to that cult and what it represented, in the form of the decree of the Senate on the Bacchanalia, that was the more important development. From the perspective of this inquiry, some forms of systematization in the organization of the rituals, as well as a systematization of the procedures in deciding about the establishment of rituals, are the most important finding. Whereas the latter will be analyzed more closely through specific examples in Chapter 5, the former is the subject of the next chapter.

Chapter 3

Changes in Religious Festivals

As sketched in the previous chapter, the mixture of Roman festivals changed from the fifth and fourth to the second and first centuries, a “long” third century being the turning point. How is this change related to the religious and political development of the Republic? I contended that the ritual changes are related to the changing role of the Senate and the nobility and to the changing notion of “public” in the term *res publica*. As most of our sources stem from the last century of the Republic—the exceptions being imperial, not earlier—reconstruction of historical change in the Republic is a notoriously difficult problem. And yet the attempt has to be made, helped by historico-critical approaches toward the texts, nontextual evidence, and models informed by results of comparative research. In order to keep these difficulties in the forefront of our perspective, my analysis will not follow a chronological narrative but will proceed by focusing on different traits of the festivals. Following the overview of developments provided in the previous chapter, I will argue that many of the observable changes can be interpreted as a systematization of religion, in practices of religious communication in particular. The actual character of the changes suggests that we may speak about a rationalization of religion as a public affair.

A Multitude of Occasions

Political interpretations of festivals (such as I will myself soon offer) are often inadequate, because they concentrate on the content and meaning of a single event. So particularist an approach will not suffice for the cultic reality of the Roman Republic. I start by taking a closer look at the *Fasti Antiates maiores*,

the only extant republican calendar.¹ On the Idus Sextiles (the calendar antedates the Augustan period and hence the month Augustus), several entries in smaller letters are to be found that refer to the *dies natales* of the temples of Diana, Vortumnus, Fortuna Equestris, Hercules Victor, and Castor and Pollux, and to a sacrifice to the Camenae. These anniversaries of dedications would have been celebrated by opening the temples and performing sacrifices. These deities were not obscure, but were frequently well-known. We would expect that each of these events would attract onlookers, pious venerators as well as mere spectators—that is to say, active participants in the ritual as well as curious children or passersby only momentarily halting their step. Given the length of time necessary for sacrifices and the preparation of meat from a sacrifice, it must be assumed that the rituals would start roughly at the same time—there is no evidence of any detailed temporal coordination. As the locations involved included the Aventine, the Porta Capena, and the Forum, people who wished to take a significant part in the ritual must have had to make a selection. Such a choice was necessary on many days.

The public character of these events was not a given. It resulted, in its realization and its degree, from a variety of factors. Many temples were built on the initiative of victorious generals, even if built with public money and by senatorial consent.² In their choice of a day for the dedication, dedicators struggled for a maximum of public awareness, and the Ides—free from various burdensome duties and everyday routines (like school)³—would offer a splendid opportunity to stage a number of additional attractive rituals. We do not know how large an audience would be gathered for the anniversaries. Individually initiated temple dedications and their annual recurrence were not the only events in competition for an audience. Concurrence of rituals was sharp on the Ides of March, for example. As on every Ides, the Flamen Dialis (and some other nonspecified priests)⁴ would sacrifice a castrated ram to Iuppiter. The day was *Feriae Martis* according to later calendars, which implies a sacrifice to Mars somewhere. The popular rite of the Mamuralia, the Salian priests' beating of a fur, was dated to March 15 by Ioannes Lydus in the sixth century, but to March 14 by the mid-fourth-century *Fasti Filocali*; any resolution of this conflict in our data must remain hypothetical.⁵ Many people, however, decided to spend the day not in the center of the city, but on the banks of the Tiber. Ovid describes the day as popular for outings and the drinking of wine in honor of Anna Perenna, whose cult place has now been located in the north of the city.⁶

Concurrence was even sharper on the Ides of October. Whereas the *ludi Capitolini* attracted Romans to the Capitoline summit,⁷ the rites of the Equus October took place on the Field of Mars, after the staging of a horse race, a sacrifice, and an ensuing race to the Forum (passing the foot of the Capitoline); the ritual contest between the inhabitants of the Subura and the via Sacra would find an end in the Regia in the center of the Forum Romanum.⁸ Whereas the Capitoline Games were organized by a college, the sacrifice of the October Horse seems to have been performed by the Flamen Martialis. The complex topographic and calendrical structure of Roman religion necessitated a large number of priesthoods and agents that were coordinated rather than subordinated. There was no central administration of these activities. Lists of ritual dates, *ferialia*, for every group or priesthood would regulate such complex activities. The *fasti* did not serve as an instrument of any detailed centralized regulation.⁹

Despite the heavy ritual demand on the Ides (and Nones and Calends), around 30 percent of the triumphs of both the third and the second centuries were staged on these days, too, concentrating on the first and last months of the year. Here, clearly, individual strategies to maximize the impression made on the public led to the choice of the date—despite the existence of concurrent events. It has to be added that exactly the same dates, Calends and Ides in particular, were used to celebrate birthdays.¹⁰ Thus another substantial portion of the urban population had—and must have used—alternative contexts for merry-making.

Monopoly by Procession

To judge by the size of the temple of Iuppiter Optimus Maximus, Rome must have already been a large city by the beginning of the Republic in the late sixth century: “la grande Roma dei Tarquini.”¹¹ A city of about thirty thousand inhabitants (to give a rough idea of its size),¹² Rome was large enough to house several festivals at public temples and hundreds of private parties at the same time. Conditions would have improved (or, from another perspective, worsened) with the growth of the city’s population to several hundred thousand by the time of the Punic Wars, and perhaps half a million by the end of the first century. How could a ritual gain the attention of a

significant portion of this population? The answer was the same at Rome as in ancient Mesopotamia and archaic Athens: processions.¹³

Processions were a staple of Roman ritual life. In the first half of the second century, Cato describes the ritual of the *lustratio agri*, where sacrificial animals were led around the property.¹⁴ One would imagine that the *lustratio urbis* comprised a similar procession, copying the annual *amburbium* as a crisis rite to cope with *prodigia*. Yet the evidence to corroborate Paulus Diaconus's etymological definition, *amburbiales hostiae dicebantur, quae circum terminos urbis Romae ducebantur*—"the victims that were led around the boundary markers of the city of Rome were called 'amburbiales'" (5.3–4 L)—is feeble. The fantastic economy of ancient references to the rite does not exclude anything: references to the *lustratio* do not exceed the phrase *urbe lustrata* or *urbem lustrat*.¹⁵ The route is difficult to reconstruct: for the *amburbium* Strabo gives a precise location, six miles out of Rome; the *luci* of Robigo and Dea Dia were about five miles away from Rome; according to Ovid, the Terminalia were celebrated at the sixth milestone on the via Laurentia.¹⁶ A processional route on this periphery would have a length of at least thirty kilometers. This is unimaginable for a one-day procession with animals to be led around and intermittent rituals. A circumambulation of Rome of the so-called Servian wall, including the Capitoline, Porta Collina, Porta Caelemontana, and Raudusculana (that is, the Aventine), would cover a minimum of ten kilometers as well—again, hardly imaginable for a large-scale procession, and difficult even for a small group of religious specialists with all their apparatus.

Scattered evidence suggests that the priesthood of the Salii did cover distant parts of the city with their dancing processions and the changing public location for their dinners, which were possibly a daily occurrence.¹⁷ Yet these ritual movements, which underline the unity of the city, covered the whole of the month of March. Apart from a few topographical foci (such as the Quinquatrus, a special ritual on March 17 that included other religious agents), spectators would be involved only occasionally, perhaps by chance.

Another possible candidate for an old processional rite is offered by the dedication of the *spolia opima*, a procession attributed already to Romulus, which featured the armor and arms of a hostile general. It is impossible to isolate a clear image of an early ritual underneath the assimilation of the *spolia opima* to the later triumph in the Augustan sources. However, the probably fictitious sacral regulation assigned to the ritual in these late sources implies different temples as destinations, including the Temple of

Mars on the Campus Martius. The latter destination would not have made for a grand procession; the same was true in its way of Iuppiter Feretrius on the Capitol.¹⁸

In order to find a ritual that not only conveys the idea of a unified and unitary city but actually tries to universalize that ideal through, in part, the attraction of the whole city's interest, one has to wait for the *pompa circensis*, the opening procession to the circus, and the actual games, the *ludi circenses*. Here, obviously, the older type of competitive races and other types of competition—which would find their culminating form in the *ludi circenses*—were combined with a long procession that involved more than a large number of marching participants. Many deities were also displayed, in the form of statues, busts, or symbols, and their presence at least implied that many temples were involved (as the natural places to store such items), even if the procession proper started from the Capitol. It is significant that the starting days of games in the late Republic do not compete with other spectacular events, but rather create such an event by monopolizing the public stage.

When did these processions originate? The author of the most detailed description, the Augustan Greek antiquarian and literary critic Dionysios of Halikarnassos (7.72.1–14), claims to base his description on Fabius Pictor, a late third-century author. Although Dionysios's avowed interest in providing a Greek origin for Roman culture might incline us to suspicion on this point, the many elements of the *pompa* that clearly parallel or even imitate Greek practices are plausible for the time of Fabius.¹⁹ I follow the skeptical position of Mommsen in postulating annual games only from 367/66 (the date being indicative rather than precise) onward; Frank Bernstein's arguments for an earlier date (following Livy's dating to the regal period)²⁰ rely heavily on the Varronian theory that anthropomorphic cult statues were an invention of the late regal period only and hence related to the cult of Iuppiter Optimus Maximus and his Capitoline Temple. The lack of an annual ritual that included cult statues from many temples does not exclude the possibility that ritual agents or high-ranking spectators were transferred by chariots (as perhaps depicted on an architectural frieze of the Capitoline Temple), but makes a full-fledged procession for the earlier phase less probable. The conversion of the *pompa circensis* into a spectacular procession would have been a development of the fourth and third centuries. Such a date would explain the rise of processions as an attempt to compete with contemporary Hellenistic rituals. Similarly, as I will argue in Chapter 5, the triumphal procession and—

following Harriet Flower—the *pompa imaginum* of noble funerals hardly antedate the second half of the fourth century.²¹

Dionysios's description of the *pompa circensis* reveals how spectators were attracted:

Before beginning the games the principal magistrates conducted a procession in honour of the gods from the Capitol through the Forum to the Circus Maximus. Those who led the procession were, first, the Romans' sons who were nearing manhood and were of an age to bear a part in this ceremony, who rode on horseback if their fathers were entitled by their fortunes to be knights, while the others, who were destined to serve in the infantry, went on foot, the former in squadrons and troops, and the latter in divisions and companies, as if they were going to school; this was done in order that strangers might see the number and beauty of the youths of the commonwealth who were approaching manhood. These were followed by charioteers, some of whom drove four horses abreast, some two, and others rode unyoked horses. After them came the contestants in both the light and heavy games, their whole bodies naked except their loins. . . . (5) The contestants were followed by numerous bands of dancers arranged in three divisions, the first consisting of men, the second of youths, and the third of boys. These were accompanied by flute-players, who used ancient flutes that were small and short, as is done even to this day, and by lyre-players, who plucked ivory lyres of seven strings and the instruments called *barbita*. . . . (6) . . . The dancers were dressed in scarlet tunics girded with bronze cinctures, wore swords suspended at their sides, and carried spears of shorter than average length; the men also had bronze helmets adorned with conspicuous crests and plumes. Each group was led by one man who gave the figures of the dance to the rest, taking the lead in representing their warlike and rapid movements, usually in the proceleusmatic rhythms. . . . (10) But it is not alone from the warlike and serious dance of these bands which the Romans employed in their sacrificial ceremonies and processions that one may observe their kinship to the Greeks, but also from that which is of a mocking and ribald nature. For after the armed dancers others marched in procession impersonating satyrs and portraying the Greek dance called *sikinnis*. Those who represented Sileni were dressed in shaggy tunics, called by some *chortaioi*, and in mantles of flowers of every sort; and those who represented satyrs wore girdles and goatskins, and on their

heads manes that stood upright, with other things of like nature. These mocked and mimicked the serious movements of the others, turning them into laughter-provoking performances. . . . (13) After these bands of dancers came a throng of lyre-players and many flute-players, and after them the persons who carried the censers in which perfumes and frankincense were burned along the whole route of the procession, and also the men who bore the show-vessels made of silver and gold, both those that were sacred to the gods and those that belonged to the state. Last of all in the procession came the images of the gods, borne on men's shoulders, showing the same likenesses as those made by the Greeks and having the same dress, the same symbols, and the same gifts which tradition says each of them invented and bestowed on mankind. These were the statues not only of Iuppiter, Iuno, Minerva, Neptune, and the rest whom the Greeks reckon among the twelve gods, but also of those still more ancient from whom legend says the twelve were sprung, namely, Saturn, Ops, Themis, Latona, the Parcae, Mnemosynē, and all the rest to whom temples and holy places are dedicated among the Greeks; and also of those whom legend represents as living later, after Iuppiter took over the sovereignty, such as Proserpina, Lucina, the Nymphs, the Muses, the Seasons, the Graces, Liber, and the demigods whose souls after they had left their mortal bodies are said to have ascended to Heaven and to have obtained the same honours as the gods, such as Hercules, Aesculapius, Castor and Pollux, Helen, Pan, and countless others. . . . (15) After the procession was ended the consuls and the priests whose function it was presently sacrificed oxen; and the manner of performing the sacrifices was the same as with us.²²

I have already pointed out the advantages of any procession ritual. The lengthy description shows in detail how mass appeal is created for such an event, clearly ritualized by its mixture of excessive order and rather anarchic elements. Many people are involved as actors or attracted as spectators. Young participants guarantee the participation of their families; the potential for an up-close look at the drivers and athletes attracts the athletic-minded crowd (1), the dances the aesthetic-minded. The level of noise marking this event must have been quite boisterous. Every sense is engaged: unusual dresses in bright colors (6), odors (13), music, even played on archaic instruments (5), thus giving additional ceremonial qualities to the procession. There is a close interaction between actors and spectators, whose laughter is provoked by

improvised performance (10). And last, but not least, the ritual assembles a large number of deities, including the most important ones according to Greek and Roman standards. The use of standardized representations of these deities, clearly stressed (13), ensures intellectual as well as religious satisfaction.²³

Duration and Intensification

Processions must be judged a highly effective means of creating publicity for a ritual and centralizing a highly diverse urban sacral topography. Otherwise, the powerful attraction of the triumph for many—but by no means all²⁴—republican generals could not be understood. However, watching a procession along a processional route—even a route more and more monumentalized in itself²⁵—implied certain limits and deficits.

The first limit is temporal. The importance of a procession could be indicated by its length, but velocity and the duration of natural light put limits on that. Triumphal processions experimented with two-day processions starting in the early second century and reached a maximum of three days in the first, but normal reactions seem to have taught the organizers of the latter to create successions of thematically varying booty and war representations—for example, by organizing separate triumphs over different peoples and regions—rather than indefinitely prolonging a unified course of people and images.²⁶ The prolongation of the competitions or scenic spectacles of the games was easier. By the time of the calendar of Antium, nine days each were marked for the *Ludi Magni* in September and the *Ludi Plebeii* in November.

Another type of ritual reached even greater lengths, namely supplications. This was a decentralized ritual, with the opening of all (or at least, many) temples to enable sacrifices and ensuing banquets throughout the city, in the second century even throughout Italy.²⁷ An exceptional ritual of petition or thanksgiving, usually lasting one to three days in the middle Republic—again the annalistic historiography is not reliable enough to enable the identification of an exact starting point—exploded during the last century of the Republic. Three supplications of fifty days in the years 45, 44, and 43 mark the acme of this trend. Obviously, as I have already observed, such a duration would not allow the difference between exceptional ritual status and everyday life to be maintained. Thus it is easy to see why this form lost its importance from Augustus onward. Yet the sustained focus of this

book on pragmatic and political aspects of the history of religion, and above all on changes in the nature, structure, and cohesiveness of the nobility, should not cause us to neglect a consequence in ritual of long-lasting, even permanent importance. I would maintain that the phenomenon of daily cult in the form of small daily sacrifices, hymns, or lamps, known from some temples and of growing importance in the imperial period, derives in part from this idea of enlarging ritual efficacy through an ever prolonged daily cult at the same temples.²⁸

Processions imply a second restriction beyond the temporal: interaction between participants is limited, though of course spectators did interact among themselves. Ovid knew about this: the *Ars amatoria* recommends to its male audience theaters, circuses, *munera*, and triumphs as places to make new female acquaintances and imagines the verbal interactions that would take place in such spaces.²⁹ The prologue of Plautus's comedy *Poenulus* (1–45) gives an even livelier picture:

I have a mind to imitate the Achilles of Aristarchus; from that tragedy I'll take for myself the opening: "Be silent, and hold your tongues, and give attention, for the general bids you listen"—the head-manager, that with a good grace you may be seated on the benches, both those who have come hungry and those who have come well filled. You who have eaten, have done so most wisely by far: you who have not eaten, be filled with the Play. But he who has something ready for him to eat, 'tis really great folly for him to come here to sit fasting for our sakes. Rise up, cryer! Bespeak attention among the people: I'm now waiting to see if you know your duty. Exercise your voice, by means of which you subsist and take care of yourself; for unless you do cry out, in your silence starvation will be creeping upon you. Well, now sit down again, that you may earn double wages. How fine a thing it is that you obey my commands! Let no worn-out debauchee be sitting in the front of the stage, nor let the lictor or his rods be noisy in the least; and let no seat-keeper be walking about before people's faces, nor be showing any to their seats, while the actor is on the stage. Those who have been sleeping too long at home in idleness, it's right for them now to stand contentedly, or else let them master their drowsiness. Don't let slaves be occupying the seats, that there may be room for those who are free; or else let them pay down the money for their places; if that they cannot do, let them be off home, and escape a double evil, lest they be striped both here with scourges,

and with thongs at home, if they've not got things in due order when their masters come home. Let nurses keep children, little brats, at home, and let no one bring them to see the Play, lest both they themselves may be athirst, and the children may die with hunger, or lest they go bleating around here in their hungry fits, just like young goats. Let the matrons see the piece in silence, in silence laugh, and let them refrain from screaming here with their shrill voices; their themes for gossip let them carry off home, so as not to be an annoyance to their husbands both here and at home. And, as regards the managers of the performance, let the palm of victory not be given to any player wrongfully, nor by reason of favour let any be driven out of doors, in order that the inferior may be preferred to the good ones. And this, too, besides, which I had almost forgotten: while the performance is going on, do you, lackeys, make an attack on the cookshops; now, while there's an opportunity, now, while the tarts are smoking hot, hasten there. These injunctions, which have been given as the manager's command, it will be well, by Hercules, that every man remembers them for himself.³⁰

The Circus Maximus offered seats, but, by virtue of their smaller size, theaters—which for most of the Republic were temporary structures, sometimes set up within a circus—enabled more intensive communication among the audience as a whole. The enormous growth of the *ludi scaenici* during the second century cannot be separated from this fact. Even if modern theorizing about the political functions of dramatic performance at Rome rests mostly on Ciceronian observations, any unbiased description must acknowledge that the intensity of political communication exploded in this kind of ritual.

Rituals in smaller circles not identical with primary groups like families offered even more intensive forms of communication.³¹ Banqueting had been an aristocratic practice, offering opportunities for the display of luxury in the aristocracies of early Latin cities. Now it was either revived or intensified as a social practice. The proliferation of villas in the areas surrounding Rome offered a growing space for elaborate dining. Professional poets like Ennius offered attractive and envied forms of entertainment. This was no purely secular form of festival. Literary dialogues usually imagined religious dates as the opportunities for banquets. According to the *Fasti Praenestini*, the newly introduced cult of the Great Mother of the Gods gave birth to *mutitationes*, mutual invitations for dinner among the nobility. The sweeping changes

taking place in banqueting as a site of social display and differentiation are obliquely attested in the prominence of sumptuary legislation in this period, which sought to limit expenditure and force banqueting groups into open, that is, controllable, space.³² This development started long before the 190s. The reforms of the priestly colleges enacted by the *lex Ogulnia* in 300 transformed the colleges into “banquetable” circles of nine persons (three to each *triclinium*); the longest extant fragment of the protocols of the *pontifex maximus* gives details of a pontifical dinner.³³ When a new priesthood was created in 196, the only such innovation to achieve the prestige of the augurs, pontiffs and (*quin-*)*decimviri*, it was the *tresviri epulonum*, whose duties basically consisted in supervising the senatorial banquets connected with the great Iuppiter festivals in September and November.

Donation and Appropriation

The dinner attested in the records of the *pontifex maximus* just mentioned was organized to celebrate the inauguration of a Flamen Martialis in about 70. We need not doubt the existence of other luxurious banquets. However, if a Roman of the first century wished to stress the lavishness, he would speak of *cenae sacerdotalis* (priestly meals). Of course, an event that is marked out as religious can also offer an occasion for intensified social interaction, however much communicative practice on such occasions was constrained by formal and informal rules specific to the event. This is not to contrast “secular” and “religious.” And yet the drawing of lots in order to determine the first voting unit, a randomized procedure that left the decision in the hands of the gods, did not transform electoral or legislative assemblies into religious meetings; *contiones* without such religious elements existed, too. The organization of splendid games, however, was considered to leave a greater impression on the voters than a grandiloquent speech. The rise of the games and public processional rites is as intensively connected to the euergetic habit as seemingly private dinners. What is the mechanism at work?

Religious occasions mean actions substantively involving the gods. Despite the neglect of the religious factor by many ancient historians, the gods were not superfluous or merely traditional paraphernalia. As shown above, the gods were the primary addressees of competitions and dramatic performances and were unmistakably present in place, time, or images—usually all three. Even the gladiatorial spectacles, which were classified neither as games

nor as public during the Republic and long thereafter, were nonetheless organized with a view toward future elections; and yet they were labeled *munera*, duties owed to a dead ancestor. The great men of the late Republic took pains to identify such forebears and did not refrain from constructing long temporal bridges connecting particular *munera* to a death that had occurred years before. The audience that was thereby created—and an introductory *pompa*, of course, helped to create such an audience³⁴—did not constitute a private meeting, but rather a semipublic party offering cult to a divine being, that is, the dead person. The performance of *munera* for the dead was understood to sacralize, however unofficially, the site of their performance. The site became a *locus religiosus* (though perhaps not *sacer*).³⁵

The religious character was even clearer for the technically public rituals that were addressed to deities venerated by the *res publica*, that is, those venerated at its expense. In public religious ritual the axis of interaction between an energetic benefactor (the leading magistrate) and the consumer (the citizens present) was transformed into a complex field of interaction among four parties at least. By cofinancing the spectacles, the polity left no doubt about its role. The presence of the gods was the guarantee that those present would not simply consume the magistrate's donation. In the ritual the gods were not honored by the leading magistrate, but by the citizenry as a whole. The explicit consumers were the gods, and the citizens became a part of the donating party. Thus the *res publica* appropriated the ritual action.

Distinction and Control

It has been my argument thus far that the possibility for the refinement, modification, and invention of forms of social differentiation was an important driving force behind the multiplication and enlargement of certain types of expensive audience-oriented rituals. As far as we can see, as regards the history of the rituals, this process was not primarily characterized by the modification of traditional competitions, sacrifices, and the like, but by the creation of new rituals, which opened up opportunities for new agents, usually magistrates, to distinguish themselves. The formation of the new nobility, the integration of patricians and office-holding plebeians from the end of the fourth century, demanded an intensified communication among its members, as between nobles and the populace. The development of a "literary culture" of drama and epic (and the financing of the first) is a consequence of this need for communication and the ritual contexts for their

performance, namely banquets and *ludi scaenici*.³⁶ The populace needed space for communication among itself for other purposes, too. The need was not in the first instance simply to corroborate dominant understandings of citizenship or political association—there were enough blood-soaked possibilities for that. Other problems, however, needed alternative modes of constituting an audience and hence a populace: as the Plautine prologue quoted above demonstrates, such audiences included females and slaves, too.

Distinction was not the only end served by these developments. Control was enhanced too. Probably the same year that witnessed the introduction of drama into the Megalesia (191) saw the introduction of reserved seats for senators.³⁷ Opportunities were at the same time “channels.” As the establishment of a normative framework for political careers channeled the possibilities for martial success or, to put it more broadly, the exercise of aristocratic excellence, so, too, the spectrum of rituals channeled public communication. Social control was produced by forcing the members of the nobility to employ the framework of public rituals and by restricting access to them: the organization of games is restricted to specified magistrates or returning generals, the triumph has to be individually approved by the Senate after discussion of the achievements of the preceding campaign. Control was likewise exerted by the long delay in the construction of permanent theaters, which imposed upon would-be celebrants the high cost of building new, temporary infrastructure for a single ritual, and by new debates about and licenses for places for temples.³⁸ In order to prevent individuals from engaging in wholesale dissent from these new frameworks, the ritual has to be allotted high prestige (e.g., the opening of the most prestigious temple of Iuppiter Optimus Maximus for the triumph, the use of the Circus Maximus, and longer periods for games). But dissent was possible, or, to put it the other way around, social consensus within the nobility remained precarious. Generals continued to organize informal triumphs (the so-called *triumphus in monte Albano*) without the consent of the Senate, erect statues all over the city, distribute excessive amounts of booty to their soldiers, and give lavish *munera*, gladiatorial shows, for the people.

The effects of ritual control are seen more clearly if we take into account areas where this control is lacking. Neither the public reports regarding the conduct of war nor the representations of booty carried in triumphs nor the funeral procession and its laudatory speech were ritually directed toward the gods. They aimed rather at the spectators—and were deeply disputed. As passages in Plautus and Cicero demonstrate, in the public communicative

acts conducted on these occasions, villages were made into cities and skirmishes turned into decisive battles, heroes were transformed into ancestors and ancestors were made into heroes, raising doubt and instigating debate.³⁹

The games are a somewhat different matter. In these highly public events, the heightened risk of the new communicative praxis impelled structural changes that insulated individuals among the nobility—and the nobility as a whole—from catastrophe. Most particularly, in the middle and late Republic nobles performed neither as actors nor as sportsmen. Competition was entirely left to professionals, and this, at least as regards the races and athletic competitions, appears a change from an earlier practice that seems to have known the participation of nobles from Rome and its surrounding areas. But in the very real competitions staged at large public rituals, a foreigner's victory or the defeat of a consul's son would no longer have been acceptable for the patricio-plebeian elite of the middle and late Republic. The truth of these claims may be verified to a point by examination of those competitions in which the elite participated, namely the mock competitions between the Luperici and the Sacriavinses. The displacement effected by the use of professionals effectively insulated the organizing magistrate from responsibility for the outcome of any given contest, even if popular favor for a champion might still be disappointed.

The gods did exert censorship nevertheless. Being the primary addressees of the rituals, they enjoyed both the offering itself and the human spectators. The latter—as second-order spectators—watched the gods watching. Thus they could be sure that they were witnesses of cultural products of the highest quality, as indicated by the names of plays listed in this chapter. The gods got Greek or Greek-style cultural products, of the same provenance and style as those selected by the nobles throughout the Italian municipalities for their villas and libraries.⁴⁰ Nobles and gods seemed to have the same taste. How could the populace not share in admiring it, while not, of course, having command of it? To be sure, many adaptations to local taste were made in producing Greek comedy and tragedy for Italian audiences, even as local centers of production developed to produce Hellenizing wares that carried the genes of local media, local techniques, and local taste. Nonetheless, the elaborated level and enormous presence of Greek language and culture (even if one should not assume the knowledge of Greek originals⁴¹) was astonishing. This marked presence was mediated to the audience by the positive reception given to these things by the Roman gods in a manner that could be imitated.

Conclusion: Public and Publicity

My short survey of changes in the ritual portfolio of the Republic has necessarily focused on processes that are visible in our sources or at least pertain to prominent rituals. Only public rites received enough testimony to sustain such scrutiny. Most of the rituals hinted at in the late republican or Augustan calendars are almost never mentioned in historiographic texts or speeches. Where a context is specified, one has to assume continuity at least from the foundation of the respective temple onward. Of course, the idea of a Numan list of festivals is no longer tenable.⁴² Many of the rites that might go back to the early Republic, or even beyond, were performed by the priests gathered in the larger pontifical college, including the *flamines* and Vestal Virgins. The monthly sacrifice of a sheep to Iuppiter (*ovis idulis*), for example, might not have attracted any spectators; nobody, however, complained about that. The actual appeal of many rituals remains obscure, though “popular” rites might indicate popularity. A list of “popular rites” would be rather short but would be led by the Saturnalia together with Kalendae Ianuariae and the Septimontium, the festival of the Seven Hills, celebrated likewise from North Africa to Gallia Transpadana. Such a list would also include the Lupercalia (February 15), perhaps the sequence of Feralia, Parentalia, and Quirinalia, certainly the Matronalia (March 1, including a rite of reversal), and perhaps Anna Perenna (March 15). Attestations for the Liberalia (March 17) are astonishingly vague; the Parilia (April 21) might have been popular. The temple of Mater Matuta would have attracted women on June 11, the Vestalia (June 15) some matrons, as did the rites connected to Ceres.⁴³ The popular character of the Poplifugia (July 5) remains feeble. There is greater certainty in the case of the Neptunalia and Volcanalia, including the construction of temporary huts and bonfires (July 23 and August 23 respectively). Later in the year, one could think of the festivals of fountains and new wine (Fontinalia and Meditrinalia, both in mid-October), though the evidence is meager. Most of these festivals are characterized by decentralized commemoration; for the majority no central rite is known.

Evidently, from the mid-fourth century onward these festival practices were supplemented rather than supplanted by complex rituals that are characterized by centralized rites, designed to attract a larger share of the population (that is to say, around an eighth to a quarter of the inhabitants of Rome) and also spectators from the surrounding towns.⁴⁴ Large processions and competition among professionals were typical. The number of days dedicated to these

“games” rose continually. At the end of the second century up to twenty-eight days may have been regularly reserved for scenic performances (including the mime),⁴⁵ a type of ritual that even dominated the circus games.⁴⁶ These rituals enabled and enforced a complex process of communication, the necessity for which seems to have been arisen from enormous expansion and military strain, as well as from internal processes of social differentiation and conglomeration. The rituals made it possible to extol individuals, in particular magistrates leading processions of different kinds (see below, Chapter 5), as well as to control and force them into the public framework, incorporating and transcending the citizens present. The latter themselves were constituted as a differentiated society that marked symbolic center and periphery. In the imperial era, this type of ritual became the standard language of religious communication of the emperor with the population of Rome, in large measure because its formal aspects had developed precisely to articulate the central importance of some individual *within* a larger community. Naturally, in the republican period, stress had been laid upon the public frame, while under the empire the centrality of the emperor, and his paradigmatic status as a performer and sponsor of ritual, became a dominant theme of religious communication.

As a consequence of the changes I have outlined, religion acquired a political importance it had not had at the start of the period analyzed. By involving the gods in large-scale communication, such communication was enabled, and a normative framework was at the same time given to it, which defined the interaction between prominent nobles and a large populace as “public.” This holds true even in the case of priestly banquets, when audiences were present only by medial discourse about the event. To state my thesis most clearly, religion captured and defined “public” space. This form of procedural systematization had two consequences. First, ritualization—forcing action into public space and religious forms—became an important form of social control. This process is the central concern of Chapter 5. Before this, however, the second consequence of this change must be addressed: the amount of religious communication grew dramatically. Growing complexity, new topics, and self-reflexivity followed; space or, better, contexts for the reception of Greek thinking on religion were available. Formulated in Latin on Roman stages, it could not but refer to Roman religion, and surely did so intentionally. This form of theoretical rationalization is the subject of the next chapter.

Chapter 4

Incipient Systematization of Religion in Second-Century Drama: Accius

So far systematization has been observed in the form of changes in institutions. In this, the rationalization of communication served the feathering of space, and the public religion appeared as an instrument rather than an object of rationalization. This chapter will address the first stages of a process that could be termed the theoretical rationalization of religion, turning religion into something that could be known and discussed and subjected to standards of argumentative coherence, that is, rationality. Although the process is visible in other texts, this chapter will concentrate on those texts that were at the center of the stages of the process analyzed so far: Roman drama.

Roman drama is best known from two of its earliest playwrights, Plautus and Terence. A recent study has shown how widespread religion is in the plays of Plautus, illustrating the performative properties of Roman ritual and the intricacies of communication with different deities. Although the image of religion thus presented seems quite coherent, and the precariousness of communication between humans and gods is thematized through the frequent dramatization of interrupted rituals, nonetheless, no systematizing critique is offered in the corpus of Plautus.¹ There is a reference to the question of whether the gods care for humans at all at the beginning of *Mercator* (5–8), but the idea, once voiced, is immediately employed to justify referring to the audience as the primary addressee of the dramatic narrative.² We have to wait for the second half of the second century before we find meaningful change in the nature of religious discourse and the content of critique.

The sources for the period under consideration are rather sparse. In the few cases where we have contemporary texts—contemporaneity being of particular significance for this investigation—they are short and seldom more

than fragments. Polybius, who was at least present in Rome, is Greek and not particularly interested in religion. Nonetheless, his positive evaluation of the function of this superstition,³ as a Polybius today would call it, may be considered an important reflection of theories that were circulating among his interlocutors: members of the Roman upper class like Cato the Elder.⁴

In the next generation of Roman playwrights, the works of Accius (c. 170–90 B.C.E.) constitute an important point of departure. These are broadly represented by numerous if scattered fragments. A review of all the fragments shows three areas to be significant: critical reflection on the gods, or theology, one could say, in general; description of meteorological and astronomical phenomena, which are treated in theoretical terms according to Greek natural philosophy; and statements about divination, which connect to a comparable theoretical discourse, enabling a distinctive criticism of Roman institutions.

Theology

Accius's dramatic productions contain a divine apparatus of personalized gods in a polytheistic framework, which allows them to move the plot forward. This does not at first glance appear different from the approach of his predecessors. The selection of deities named as agents in the action is not particularly striking, despite the arbitrariness of the material left to us: Iuppiter appears several times (e.g., 535, 646 R = 210, 450 D); Iuno (652 R = 702f. D) and Mars as Mavors (321 R = 157 D), *Arquitenens* or bow-bearer is used of Diana (52 R = 324 D) and Apollo (167 R = 285 D). Minerva bears the epithet *armipotens* (R 127). The list is lengthened by the "forest-inhabiting" fauns (237 R = 428 D), Silvanus (405 R = 481 D), and Fortuna and Sol (619 R = 88 D), along with groups of gods such as the *di inferi* (R 62) and the Cabires (526 R), an apparently typical Roman term for the "great gods" worshipped, for example, on Lemnos and Samothrace.⁵ According to Servius Auctus (*Aen.* 8.130) the genealogy of Evander, which went back to Maia and her son Mercurius, received extensive treatment in the *Atrous* (*Atrous* I R = I D). Vulcan distinguishes himself by being named three times (484, 529, and 558 R = 129, 204, and 233 D as Mulciber).

A pure or primitive Roman religion that lies beyond any Greek influence does not exist, as Franz Altheim has demonstrated.⁶ At the same time, different forms and stages of assimilation can be identified. Hence, in the context

of contemporaneous cult names, it seems striking that it is precisely the offspring from the relationship between the god Zeus and the human Semele, Dionysus, who is referred to by a Greek name, although perfectly usual Latin equivalents were available in Bacchus and Liber:⁷ *o Dionyse, optime pater, uitisator, Semela genitus, euhie!* (240–242 R). This passage from the *Bacchae* is not an isolated case. In the *Tereus* the same god is referred to in a similar manner: *Deum Cadmogenam natum Semela adfare et famulanter pete* (642 R = 445 D). The longest genealogy, from the *praetexta Aeneadae sive Decius* (fr. I = 676 D), is one of Iuppiter (in the long version of his name): it proceeds in four steps to Anchises. It is completely Greek and ends, significantly, with Anchises, not with Decius.⁸ The aforementioned genealogy of Evander from the *Scholia Danielis* may have resulted in a decidedly Greek-sounding text (*Atrous* I R/D). If one sees this as a form of distancing, the very pronounced statement in the *Epinausimache* (328 R = 139 D) that the children of gods are mortals fits this ontological separation of men and gods well.

Statements and emphases of this type had contemporary relevance at the end of the second century (the term is used advisedly, since chronological precision in a history of this kind is impossible). In Roman civic theology, there was by this time a long-standing tradition of suppressing or at least eliding genealogical relationships between the gods and especially relationships with humans. Particular attention is paid in this regard to the central god of the community, Iuppiter.⁹ The hypercorrectness on display in the selection of Jove over Iuppiter, linguistically oriented to the Greek, and like “Zeus” refraining from the use of the epithet *pater*, which was by contrast applied cultically to other gods (Mars Pater or even Marspiter, Ianus Pater), could be a part of this trend (and not something that should be interpreted as a Greek-ism). It is found before Accius in Naevius (active as playwright c. 235–205) and Pacuvius (c. 220–130).¹⁰ It is in opposition to this rationalization of the earlier aristocratic consensus that, at the end of the second century, the claim to divine ancestry is taken up in the public sphere in claims to excellence on the part of individuals, born to politically second-string *gentes*.¹¹ The advancing of such claims to divine ancestry takes place in the same context of conflict in which the compilation (and invention) of the republican consular *fasti* occurs—the *fasti* being themselves both a memorial to and medium of competition for aristocratic distinction with respect to ancestry—and this process will continue into the Augustan period.¹²

On this basis it is hardly coincidental that the word *caelites* in the sense of “gods” appears three times in Accian fragments. I interpret this as part of

the same trend of ontological separation between men and gods. Accius is not the first to use it. It appears twice in fragments of Ennius's dramas, and Arcturus introduces himself with this term at the beginning of the prologue of Plautus's *Rudens* (1–3):

*Qui gentes omnes mariaque et terras mouet,
eius sum ciuis ciuitate caelitum.
ita sum ut uidetis splendens stella candida.*

With him who moves all peoples, seas, and lands, I am a fellow-citizen in the city of the heavenly (beings). I am, just as you see, a shining and bright star.

“Heavenly” means here “inhabitants of heaven” and is to be taken literally, even if the metaphorical meaning “gods” is implied, as the first verse shows.¹³ The same hierarchy of meaning is found in the *Hecuba* of Ennius in the formulation *o magna templa caelitum commixta stellis splendidis* (*Scaen.* 196 Vahlen): gods they may be, but they also dwell in heaven, among the stars. The more narrowly spatial meaning of the term, which was overdetermined by its etymology, is also preserved in the related form *caelestes*, which dominates completely from Cicero onward. In Accius *templum resonit caelitum* (*Aeneadae* X = 686 D) belongs in this category.

The word gains a new nuance in Ennius's *Telamo*. In one passage, which formulates sharp criticism of current religious ideas in several ways,¹⁴ the god Telamo himself remarks, in the face of the death of his mortal son Ajax, that the gods do not care about humans: “For if they did take care, it would go well with the good and badly with the bad, which is not at all the case” (*nam si curent, bene bonis sit, male malis, quod nunc abest, Scaen.* 318 Vahlen = *Trag.* 265 Jocelyn). This is the classical formulation of the problem of theodicy,¹⁵ and a standard polemic against the Stoic concept of divine Providence. It is significant that precisely in this connection¹⁶ Telamo shifts from the term *dei* to the term *caelites* and employs it in expressing the thought that the gods/inhabitants of heaven do not care about humans:

*Ego deum genus esse semper dixi et dicam caelitum,
sed eos non curare opinor, quid agat humanum genus.*¹⁷

I have always said and will always say that the race of heaven-dwelling gods exists; but I do not think they care what the human race does.

The two passages from Accius must be read in this context. The junctures are similar: the topic is the cult of the—perhaps this adjective best reflects his tone—high gods: in the first case the approach to the *caelitum aras* (298 R = 606 D) and in the second an exclamation (593 R = 566 D): *Delubra caelitum, aras, sanctitudines!*¹⁸ In both cases the connection to earthly monuments produces a particular tension. The transcendence, or, to use a shameless anachronism, the otherness of the gods, is emphasized, and not the *deus otiosus* of the Ennianic Telamo. The distance—the form of the distance—given articulation by Accius prohibits any routinized, chummy closeness.

In the scanty remains of the formulations just cited the text is naturally inadequate for a reconstruction of Accius's theology.¹⁹ One could follow the lead of Thomas N. Habinek and point to the creation of an artificial language, far removed from the everyday language of ordinary people. The creation of such a pure Latin would then mark an attempt to create an exclusive cultural resource of the nobility.²⁰ *Caelites* instead of ordinary *dei* would mark a social difference. Instead, I suggest that Accius is taking a critical stance in a contemporary conflict *within* the nobility, arguing against the divine genealogies of Romans by systematizing theological thinking.

The term *sanctitudo* leads to a further observation. On the one hand, it is the current term in the pre-Ciceronian period, in contradistinction to *sanctitas*. On the other, the usual glosses provided by way of translation, such as “religious protection” or “holiness,” are not very convincing. In confronting the unfamiliarity of the term in its second-century meaning, we are made to recognize the influence of Cicero's attempt to transform the term *sanctitas* into a general religious term meaning “necessary cult.”²¹ In this connection Accius also makes a pair of *nomen* and *numen* (646 R = 450 D, also 691f. R = 704f.), playing on the similar sound of “name” and “divine will” in Latin. The forced differentiation can best be understood as an attempt to distinguish the cultic form by which the god is known in ritual—*nomen*—from its inaccessible personality (*numen*), or perhaps as an attempt to interpret the former through the lens provided by the latter.

The attribution of a heightened transcendence to the gods enabled the use of the gods' names as metaphors, a practice already visible in Plautus. I

would see the use of *duo Mavortes*, “two Mars,” as a description of the collision of two rows of soldiers as an example of this. We must keep in mind, however, that Accius marks this kind of usage very precisely as nonliteral: *crederes*, “one could believe” (321 R = 157 D).

Statements on Natural Theology

The theoretical content that characterizes the passages related to the gods that we have thus far considered can be observed in the formulation of other topics, even if the difference in topic sometimes makes it difficult to identify the processes of rationalization at work in particular cases in terms of Greek natural philosophy. Several passages thematize vitality and life forces: the relationship between reason (*animus*) and vitality (*anima*) is referred to in the *Epigoni* (fr. 296 R = 589 D) and becomes the subject of an explicit psychological question in the *Epinausimache*: according to the plausible interpretation of the late antique lexicographer Nonius Marcellus, *anima* signifies an elementary affective drive, in this case aggression caused by anger.²²

Statements on geology help to maintain a scientific coolness. The mythological description of volcanism (529ff. R = 204ff. D) is treated with considerable distance through the use of *dicitur* and *dictus* – others “say”. Earthquakes, along with thunder and storms, offer primarily problems of perception (479f. R = 289f. D). The famous description of the shepherd in the *Medea* seeing a ship for the first time is above all precise, and only later in the text are there descriptions of physical processes like wind and waves with a slight shimmer of the mythological (391–402 R = 467–78 D).²³ A comparable mode of representation can be found in the description of thunder (223–25 R = 54–56 D).

The astronomical and astrological passages are the most revealing. While in the *Clutemestra* it is the *deum regnator*, the lord of the gods, who brings the night, the formulation *nocte caeca caelum e conspectu abstulit* (“by blind night he removed the sky out of sight”) contains a precise theory of basic processes of perception. It is the lack of light that creates blindness. The conception of the dawn (*aurora*) as *radiorum ardentum indicem* (“indicator of burning rays”; 493 R = 9 D) corresponds to this in its general structure, without being a component of a unified theory. Neither here nor in the following passages does Accius’s theoretical achievement go beyond older

notions. What is striking, however, is the consistency with which, in comparison with older Latin literature, explanations for natural phenomena in the domain of myth are avoided.²⁴ Another example of this can be found in the description of the zodiac (711–13 D).²⁵

Divination

Accius several times describes situations that are treated as omens, or prodigies that relate to the whole of society,²⁶ whether within the dramatic plot or in contemporary Roman practice. It is not possible to identify a clear position on divination or criticism of divination on the basis of the fragments. What does come through clearly is the effort to apply a clear and precise terminology to the full range of such phenomena, as well as the attempt to formulate the conditions necessary for correct divination. This is shown in the conditional clause *si satis recte aut uera ratione augurem* (87 R = 644 D: “if I divine sufficiently correct or by true method”), and also in the use of multiple techniques in order to ensure greater accuracy: *Principio extispicium ex prodigiis congruens ars te arguit* (419 R = 496 D: “First of all the identical answer of inspection and prodigies accused you”). Even in reference to the golden ram of Atreus, the relationship between *portentum* and *prodigium* is precisely defined.²⁷

There are also more biting formulated criticisms of teachings on augury, which was at the core of public and political divination in Rome. In the *Telephus* the question is posed, *Pro certo arbitror sortis oracula adytus augura* (624 R = 92 D: “I shall have for certain lots, oracles, temples, and prophecies”). This criticism is expressed even more stringently in the *Asty-anax*:

*Nil credo auguribus, qui auris uerbis diuitant
alienas, suas ut auro locupletent domos.* (169f. R)

In no wise do I trust augurs, who enrich the ears of others with words,
so that they may fill their own houses with gold.

These formulations are reminiscent of criticisms voiced by Ennius and Cato regarding the recourse to “unreliable seers” (*harioli*),²⁸ but here, by contrast, the possibility that the Roman system should somehow escape criticism by

appearing to direct that criticism solely at socially or geographically foreign practices is not left open. The use of assonance in *augures*, *aures*, and *aurum* does not subtract from the argument. *Aurum*, unlike Ennius's *drachmae*, opens up the possibility of a metaphorical interpretation as payment. The context in which these texts were produced and first received is undeniably one in which both the theory and the practice of augury was the basis of controversy: the *lex Aelia Sentia*, which belongs to the last third of the second century, was an attempt to resolve just those controversies.²⁹ This atmosphere is reflected in another fragment from the *Astyanax*, in which the seer Calchas is instructed to stop being obstructive (171f. R = 281f. D):

*Nunc, Calcas, finem religionum fac: desiste exercitum
morari meque ab domuitione arcere tuo obsceno omine.*

Now, Calcas, make an end to religious scruples: stop delaying the army and hindering me from returning home by means of your unpropitious sign.

Likewise in the *Melanippus*, the question of the limits of religious scruple is raised in the remark *reicis abs te religionem* (430 R = 531 D: "You cast away religious scruple!"), as well as in the question about stains (433 R = 529 D): *Crediti me amici morte inbuturum manus?* ("Do you think I am going to maculate my hands with the death of a friend?")

The Dream of Tarquinius Superbus

The longest surviving fragment by Accius is the Dream of Tarquinius Superbus, consisting of twenty-two verses in the preface to *Brutus* (651–72 D). Probably first performed c. 136 after the return of D. Iunius Brutus, the consul of 138, from Spain,³⁰ this fragment demonstrates Accius's rational engagement with literary and religious topics and the fruitfulness of viewing that engagement in light of a broader understanding of contemporaneous changes in religious practice and discourse.³¹

The religious-historical motifs of the extract have long spurred interest in the dream.³²

What is interesting for an investigation of the history of argumentation is neither the dream motif nor the content of its interpretation but that the

interpretation offered by a professional interpreter is introduced by an explicit theory of dreams:

*Rex, quae in uita usurpant homines, cogitant, curant, uident,
quaeque agunt uigilantes agitantque, ea si cui in somno accidunt,
minus mirum est; sed in re tanta haud temere improviso offerunt.*
(663–65 D)³³

King, if the things that occupy people in life, what they think about, worry about, and look upon, and what they do and busy themselves about when awake, happen to somebody when asleep, it is no wonder; but in a matter of this gravity they do not arise unexpectedly or without cause.

The “theory of dreams” offered here had not been expressed in Latin before.³⁴ In Plautus, for example, detailed dream scenes derive their thematic significance from the similarity of the dream and reality, but the topic of the dream is by contrast the reality immediately following upon the dream.³⁵ Plautus’s “dream theory,” which appears in the demon prologue to the third act of the *Rudens* as well as in the *Mercator*, differs in glaring ways from that of Accius:

*Miris modis di ludos faciunt hominibus,
mirisque exemplis somnia in somnis danunt:
ne dormientis quidem sinunt quiescere.*³⁶

In wondrous ways the gods play games with humans,
in wondrous fashions they give dreams in sleep:
not even the sleeping do they permit to have their rest.

The gods play their games with humans, and this is “wondrous”: the label serves to bracket the entire phenomenon from rational explanation.

By contrast, when Accius refers to this language, he does so polemically: *mirum*, the wondrous, is exactly what is negated. Even the avowedly extranormal, which is explicitly the subject of the dream interpreter’s reflections,³⁷ is described by the dream interpreter as following a certain (admittedly vague) necessity: it is “not without cause.” The effort at rational explanation within the framework of a worldview that unquestioningly assumes the existence of

the gods is clear enough. Again, a comparable theoretical treatment of the interpretation of dreams is not to be found in earlier Latin literature.³⁸

Also of note in the words of the interpreter of dreams is the connection between the dream and other forms of divination. The content of the dream itself is basically two divinatory events: an animal sacrifice gone wrong and an unusual astronomical event, a change in the course of the sun. These clues serve to disambiguate.³⁹ The private application of the first event, an attack by the sacrificial animal, is to our knowledge unclassified in Roman divinatory practice but is definitely negative. It is connected to the precise classification of a bad public omen (*ostentum*) (668–72 D):

*. . . nam id quod de sole ostentum est tibi,
populo commutationem rerum portendit fore
perpropinquam. haec bene uerruncent populo! nam quod [ad] dexterum
cepit cursum ab laeua signum praepotens, pulcherrume
auguratum est rem Romanam publicam summam fore.*

. . . for that which was shown to you concerning the sun portends that an upheaval soon awaits the people. May it turn out well for the people! For the fact that the mighty sign shifted its course from left to right is a most splendid omen that the Roman state will rise to greatness.

The astronomical abnormality is, according to its reference and direction, the object of the teaching on augury.⁴⁰ Here we see once again Accius's concern for insuring the success of divinatory practice by applying several techniques simultaneously to the interpretation of signs.

Conclusion: Strengthening Probability

We should not expect to be able to extract a coherent or universalizing position from scattered passages deriving from diverse dramatic contexts and characters. The material is not sufficient to identify Accius's own views, let alone to reconstruct anything like an Accian "theology." Taken as a whole, however, the findings do allow us to recognize across the totality of the fragments specific modes of critique and interpretive presuppositions. These I interpret as primarily determined by the context of their production, rather than viewing them as evidence of some narrow process of reception of a

philosophia perennis or as the mere report of a foreign view. (That said, this last category might well serve to characterize the religious-philosophical statements of Ennius.⁴¹)

Understood in this way, Accius appears closer to the type of rationality on display in works of the first century normally termed philosophical than to the form of rationality in play in antiquarian literature. Accius distances himself alike from criticism for the sake of criticism and also from pleasing the audience.⁴² He takes up the position of one integrated into the Roman upper class, to whom the “probable” of Greek philosophical argumentation has become not *verisimile*, but *probabile*. The theoretical judgment that something is “close to absolute truth” is replaced by the concept of positive social sanction, the socially acceptable that “could be given assent.”⁴³ Accius’s near contemporary, Pacuvius, while not sharing Accius’s social position, did share his attitude.⁴⁴

Accius, it should be remembered, was primarily a playwright. His reflections are part of dramatic discourse, which is to say, a distinctive form of public discourse. It did not have to be accepted, but it had to be witnessed by the audience. Public ritual thus offered space for explicit rationalization in a theoretical mode. Indeed, as the next chapter will show, ritualization itself could come to the service of rationalization.

Chapter 5

Ritualization and Control

Symbolic Communication

The findings of the previous chapters invite us to apply a historicizing analysis to a ritual that took on many different usages in the late Republic but is said to be a remnant of a very early layer of Roman religion, surely predating the period analyzed here: the triumph.¹ From the formation of the republican *nobilitas* onward, Rome's imperial success depended greatly on the efficient channeling of potentially disruptive internal rivalries into externally directed imperialist action. In this context, the triumph constituted one of the media through which the Roman nobility could display military success and its rewards to the Roman populace, thereby helping to ensure the future participation of the populace in aristocratically directed warfare.² Hence the importance of the display of booty and military feats: thus were the fruits of empire made visible.³ It is one of the most interesting aspects of this system of communication that it furnished hardly any institutionalized outlet for communication concerning, and public recognition of, military defeats. The Romans did not even have a parallel to the Greek cult of those who died during a victorious campaign.⁴ The significance of the triumph can be further deduced from the fact that, among the alternative means available to successful generals for the display and investment of booty—such as temples, buildings, and games⁵—the triumph offered a prestige that, from the second century onward, some tried to exploit far beyond the temporal framework of the ritual proper.⁶

Even after the *triumphator's* death, the deceased received conspicuous recognition for his achievement. In the funeral of a Roman noble, those of his ancestors who themselves had reached magistracies were represented by actors who, in addition to a wax mask, wore the insignia and clothing of the

highest office reached in life by the person they were impersonating. Each “magistrate” was accompanied by the appropriate number of lictors, and counting them was the only means by which one could differentiate between former consuls, praetors, and aediles. All of them were dressed in the *toga praetexta*, the white toga with a stripe of purple worn by Roman magistrates. For *triumphatores*, on the other hand, such arithmetic was unnecessary: their all-purple garment set them apart from the crowd of mere officeholders.

But what are the semantics in the political communication performed by the *triumphator* or, for that matter, in the procession of masks? Do we have to postulate a change from a predominantly religious meaning to a predominantly political one? That is to say, was there some earlier period in which the *triumphator* was meant to be, or at least represent, Iuppiter, and in which not representations, but the dead ancestors themselves, rumbled through the city during the *pompa funebris*?⁷ As regards the triumph, one could imagine that such a change occurred at the end of the fourth century, during the formative phase, that is, of the new nobility. In this case, the change in signification seems to have left the basic elements of the ritual unaltered. For the *pompa imaginum*, Harriet Flower has argued for the transformation, at about the same period, of some unknown earlier (religious) ritual into the later, well known, and primarily political event.⁸ Yet in order to save the hypothesis of a more religious earlier version of the aristocratic funeral and the cult of the ancestors—one completely unknown to us—she has to argue that the entire complex of funeral speech and commemorative use of masks, as well as their storage in the *atrium* of the aristocratic house, is a nonreligious addition dating to that period.⁹ The only evidence for the postulated prior stage is statuary from that period of (what are supposedly) ancestors. Fully convincing parallels for that type of ancestor cult are lacking.¹⁰

This chapter offers a new hypothesis to explain the form and the significance of both rituals, by relating them to the practice of erecting honorific statues. The hypothesis is not supported by direct ancient evidence. Yet it better explains and provides fuller historical contextualization of the odd features of both rituals, in particular of the triumph, than previous attempts at understanding them. As processional rituals that offered space for differentiated communication by plays and speeches, respectively, and by their combination with ludic elements, they no longer appear isolated, but can be understood as participants in the ritual development of the middle Republic described in the previous chapters. In the case of the triumph in particular,

ritualization turns out to be a medium of public control. This rests on the assumption that by the fourth century the display of private statues in public space—owing more to their associations than sheer numbers—was seen as threatening the stability of the nobility.

Iuppiter or *Rex*?

Our knowledge of the Roman triumph derives mostly from literary sources, especially from Livy onward. The written sources on which these historians, antiquarians, or poets relied could not have gone farther back than the end of the third century; usually they are later. The astonishingly few images relating to the triumph all come from imperial times. As a matter of method, every attempt at reconstruction of the ritual for earlier periods is therefore necessarily antiquarian in approach: one picks out and interprets individual elements, or combinations thereof, as nonfunctional survivals from a period when they would have possessed greater pragmatic meaning and value. This heuristic procedure is operative in every study of the republican triumph, including my own.

How are we supposed to envisage this ritual? On the most basic level, we are dealing with a procession of soldiers and booty that had its notional center in the victorious general. The triumph was staged at the end of a campaign, after the return of the army, and was subject to the Senate's approval. In legal terms, it involved the entrance of a bearer of *imperium* and armed soldiers into the city proper. The crossing of the boundary into the city was therefore emphasized.¹¹ That said, the meager evidence for an elaborate entry ritual or fixed point of entry, tied to a fixed route, points to the variability of these elements and argues against totalizing interpretations based on them.¹² Booty and captives were presented to the populace; some of the latter might be killed once the procession had reached the Capitoline. Sacrifices to Iuppiter Optimus Maximus concluded the ceremony, probably in correspondence to, and fulfillment of, vows made upon the general's departure on campaign, which had been addressed to the same deity.¹³ The whole procedure was supposed to honor the triumphing general. Riding in the center of the procession, he wore a costume that Juvenal (whose testimony is also quoted by Servius) designated as *tunica Iovis*, "the tunic of Iuppiter."

Other paraphernalia, too, might have been designed to relate the *triumphator* to Iuppiter: he wore a golden crown,¹⁴ held a scepter topped by an

eagle, and rode on a *quadriga* that replicated the one displayed on the roof of the Capitoline temple. Modern scholars tend to view the satirical verses sung by the participants as apotropaic elements.¹⁵ On the other hand, ancient antiquarian research related some of the symbols used in the triumph culturally to Etruria and chronologically to the period of the kings. Taken together with the apparent connection to Iuppiter, this piece of antiquarian information set the agenda for two centuries of modern inquiry, which then revolved around the question whether the *triumphator* impersonated the god who was the embodiment of the entire *res publica*, Iuppiter Optimus Maximus, or instead revived the figure of the king.

Hendrik Versnel claimed that the ostensible alternatives are not mutually exclusive but two related facets of a religious ceremony known from the ancient Mediterranean world. According to Versnel, the triumph should be viewed as the modified form of a New Year ritual during which the king confronted the highest god of the state and, in turn, became his embodiment. The direct Roman descendant of this festival is to be found on the Ides of September, the *epulum Iovis* and the *ludi Romani*. These commenced with the *pompa circensis*, a ritual strikingly similar to the triumph, especially in the role played by the leading magistrate. One of Versnel's most important arguments involves the element of the triumph from which the ceremony derives its name, namely the soldiers' cry, (*io*) *triumphe*. This formulation is used in the archaic *carmen Arvale*, a song that explicitly asked Mars and other deities for an epiphany and must stem from a cultic address to a deity from Asia Minor, Dionysus, who was invited to appear with the cry *thriambe*.¹⁶

There is, however, a serious problem with Versnel's solution: the historical Romans did not associate the appearance and acclamation of the triumphant general with his ascent to divine status, to say nothing of his transformation into *Iuppiter ipse*. The Roman nobility frowned on peers who laid claim to royal power or identified themselves with the highest god of the *res publica*. Caesar was killed for doing so. Full acknowledgment of this problem is crucial for any general interpretation of the ritual. In order to prepare the way for a new hypothesis, I now invoke Victor Turner's principle of contextual meaning and start by addressing the relationship between the triumph and the *pompa circensis*. The conspicuous parallels in the apparel of the *triumphator* and the magistrate who led the *pompa circensis* have provoked several studies that postulate a historical relationship between the two ceremonies.¹⁷ Whereas Versnel argued for the godlikeness of the magistrate who supervised the *pompa* by way of analogy with the *triumphator*, and identified

an original meaning for the triumph by analyzing the rituals of the Ides of September, I shall reverse his approach and concentrate on differences rather than similarities.

First, it must be pointed out that Versnel's most convincing arguments in favor of the hypothesis that the *triumphator* impersonated Iuppiter are based on elements of the costume that he shared with the leading magistrate of the *pompa circensis*. Leaving aside the dream of Augustus's father, in which the future Augustus appeared to him with the insignia of Iuppiter,¹⁸ two sources that employ the term *ornatus Iovis* (or the like) concern the *triumphator*, while the other two are about the magistrate.¹⁹ The same holds true of the golden crown (*corona aurea* or *Etrusca*), which is attested for both, *triumphator* and magistrate.²⁰ But is there any reason to identify the magistrates in charge of the *pompae* with Iuppiter?²¹ They were neither victorious nor were they permanently honored, either in life or after death, for having performed this ritual role. They were—and this needs to be stressed—never acclaimed with *io triumphe*. There is one further argument that makes such an identification highly unlikely. The most important task of the magistrate was to round out a procession of gods to the circus. But IuppiterIuppiter himself had already appeared in the *pompa*, in the form of a statue that was paraded together with those of the other gods. Why should he appear twice?

All this has important consequences for our interpretation of the *triumphator*. I submit that we can no longer regard the paraphernalia that the *triumphator* shared with the procession-leading magistrate as viable evidence of the *triumphator*'s Iuppiter-like status. That the costume worn by the protagonists in these rituals matched that of Iuppiter,²² in recalling the (temporary? periodic?) clothing of his Capitoline statue, simply does not entail that the Romans regarded other bearers of the *tunica palmata*, the purple toga, or the gold crown (which was too heavy to be worn on the head and hence—in both cases!—had to be held by a slave instead),²³ as indicators that Iuppiter was being impersonated.²⁴ The same is true of the eagle-crowned scepter, which again was perhaps common to both ritual roles:²⁵ it is too general a symbol of sovereignty to ensure a specific reference to Iuppiter.²⁶ Given the ease with which this combination of symbols was applied to a variety of ritual roles in different *ludi*, the meaning of these symbols was most likely a generic one, not closely related to the specific contents of these rituals. The easiest way to interpret the costume is to see it as temporarily distinguishing an

outstanding, extraordinary magistrate with regal symbols, which, in other ritual contexts, were also used to honor Iuppiter.²⁷

There remain two differences between the *triumphator* and the game-leading magistrate. First, the *triumphator* rode on a *quadriga*, a chariot drawn by four horses, whereas the magistrate was granted only a *biga*, drawn by two horses.²⁸ The *quadriga*, being the more prestigious vehicle, elevated the *triumphator* above the normal magistrate. This might be taken to imply a reference to Iuppiter, as well as to royal status—that is to say, to the highest degree of political power.²⁹ And second, apart from the *io triumphe*, the *triumphator* was also colored in red, which is not attested for a game-leading magistrate. Does this mean that the Romans saw Iuppiter at the heart of the triumphal procession, as Versnel maintains?³⁰ Or did they see something else?

Parading a Living Statue

The earliest and principal source for the coloring of the *triumphator* with red paint is Pliny the Elder:

Iovis ipsius simulacri faciem diebus festis minio inlini solitam triumphantiumque corpora; sic Camillum triumphasse; hac religione etiamnum addi in unguenta cenae triumphalis et a censoribus in primis Iovem miniandam locari.

On days of festivals the face of the statue of Iuppiter himself was usually smeared with cinnabar, and likewise the body of *triumphatores*. Camillus was said to have triumphed thus; according to the same scruple it was added even at that time to the unction at the triumphal meal, and the commission of coloring Iuppiter was among the first things censors had to do.³¹

Now why should the face of the statue of Iuppiter be painted red?³² The answer has nothing to do with some protohistoric use of red color, as Versnel suggests,³³ but with material conditions and a cultural code. The statue would have been made out of terra-cotta like the *Hercules fictilis* of the *ara maxima*.³⁴ This meant that, instead of the oil used in caring for statues of marble, the freshening up of the natural color (as opposed to colorfully painted parts) was done with red paint.³⁵ Urgency was supported by a cultural code. The

faces of terra-cotta male deities—the type of statue for which we have ample evidence—were differentiated from the light faces of female terra-cotta deities by their darker red color.³⁶ A Roman *triumphator* celebrated the ritual colored in red, not in imitation of Iuppiter, but in imitation of a male statue of terra-cotta.³⁷ Being carried on a chariot in a frozen pose,³⁸ he additionally applied red coloring to his body (which, I presume, means the visible parts of his skin) to ensure that he was understood as a terra-cotta statue. The ancient Romans who watched a triumph saw a procession during which a “stand-in” terra-cotta statue of a male was carried into the city. They neither saw monarchy returning, even temporarily, nor did they see Iuppiter coming home or being carried around. As has been pointed out in dealing with the *pompa circensis*, Iuppiter was in any event a familiar figure on Roman streets. Everyone knew what he looked like: he was paraded around town on a stretcher, in the form of a statue or bust, or his *insignia*, especially the lightning, were carried in a *tensa*, a special car for a long time drawn by children. No one would have confused him with a *triumphator*.

Statues for the Nobility

The only form of the triumph known to us—and, indeed, the only form known to the Romans of the late Republic and empire—was an invention of the second half of the fourth century. It was a ritual performed following the (often difficult) decision of the Senate to publicly acknowledge the martial achievements of a returning general. In the face of an increasing display of private statuary on public ground (statuary probably already in marble or bronze)—such displays being described by Demosthenes as a contemporary development³⁹—the Roman nobility as a whole tried to concentrate public prestige on a ritual, which included the publicly decreed concretization of a consciously archaic representation, namely the terra-cotta statue still in use for deities housed in temples. And who better to act the part of the temporary statue than the one who was honored by it? The ritual did not force the honorand to reject later real statuary. Rather, the ritual should be understood as participating at once in the establishment of a monumentalized commemorative culture and in its regulation.⁴⁰ Far from rendering real statues otiose, therefore, the ritual increased their symbolic value and legitimized their public display.

Markus Sehlmeier observed that the earliest known honorific statues, that is, statues put up for a living person, represented *triumphatores*. He went on to postulate a regular connection between triumphs and honorific statues.⁴¹ The first recorded instance of this connection is attributed to the year 338 and coincides with the first award of an honorific statue after the dictator Camillus refounded Rome after the Gallic sack. After the successful completion of the war against Pedum, the final phase of the Latin Wars of 340–338, the consuls L. Furius Camillus and C. Maenius “returned to Rome for a triumph decreed by the consensus of all. To the triumph the honor was added that they receive equestrian statues in the Forum, a rare event at that period” (*Romam ad destinatum omnium consensu triumphum decessere. additus triumpho honos, ut statuae equestres eis, rara illa aetate res, in foro ponerentur*).⁴²

Livy stresses that the statues were equestrian and thereby supposes a conceptual link between the award of a simple statue and the triumph. Does Livy’s Augustan-era construal of his information accurately reflect the situation at the end of the fourth century? Anthropomorphic divine images were frequent before and during that era,⁴³ but the same was not true of honorific statues of living people.⁴⁴ There is no evidence that the honoring of living individuals through the erection of statues became common in Greek states before the late fourth century. In regard to Rome, there are isolated stories of statues being put up before then. Whether these stories are trustworthy is controversial.⁴⁵ Tonio Hölscher and Markus Sehlmeier are in agreement that, at Rome, the practice of displaying statues in public started in the latter part of the fourth century, and that this practice assumed a variety of forms that surpassed any Greek models.⁴⁶ There are other indications that this same era saw the emergence of new commemorative practices, such as the reorganization of the Forum initiated after 318 during the censorship of Maenius, who had previously been honored by a statue, and who put up the so-called *maenianum*, a building that featured a gallery for spectators.⁴⁷

We should not assume, however, that this development in respect to public honor through statuary was directed by the Senate. It is more plausible to assume that private initiative was responsible for the pursuit of the possibility that statuary afforded to represent, multiply, and immortalize one’s own body in a form previously reserved for gods. The warrior of Capestrano might be seen as evidence of such experiments. The granting of triumphs by the end of the fourth century might have constituted a reaction—an attempt at systematization—to regulate and bring under senatorial control an exploding private practice, which had begun only slightly earlier. Attempts to control

the awarding of powerful honors—such as were attached to statues displayed in public—would continue throughout the rest of Roman (and, indeed, European) history.⁴⁸ The public ritual and the (mostly) private erection of a statue thus interacted. The display of booty could have taken place both during the ritual and at the erection of the statue. Maenius built the famous tribunal for public speakers, the *rostra*, as the means to display booty, and some of the earliest attested statues represented donors at the side of the divine images that they had dedicated. The *triumphator* Spurius Carvilius, for example, had his statue on the Capitol, close to a colossal image of Jupiter.⁴⁹ In the triumph various media interacted in the representation of both the *triumphator* and booty, and paying attention to this interaction is crucial for a proper understanding of this elevated ritual.

How can we date this development? Some comparatively reliable notices in our literary sources about the display of triumphal statues suggest the late fourth century as the *terminus ante quem* for the emergence of the triumph in its classical form. Other developments that relate to the question include the rather dimly understood spread of honorific statues in the Mediterranean world of the fifth and fourth centuries and the largely simultaneous process of the formation of the “new” Roman nobility during the fourth century. Decisive steps seem to have occurred in the wake of the constitutional changes marked by the so-called Sextian-Licinian laws, which are traditionally dated to 367.

Another line of argumentation exploits the similarities between the triumph and the *pompa circensis*. In conjunction with the admission of plebeians to the consulship in 367 (or thereabouts), the magistracy of the *aediles curules* was created, whose task it was to oversee the public games.⁵⁰ As a result, the *pompa* celebrated during the *ludi* was no longer led by the supreme officer of the Republic but by lesser magistrates, who, for the time of the ritual only, assumed, by means of their clothing, the role of the “king’s successor,” a role previously performed by the consul. This change in ritual procedure freed up the paraphernalia (and their semantics), rendering them available for use in other rituals as well, as the immediate proliferation of games and the length of the games would seem to evince. It is this semantic development that I claim as a *terminus post quem* for the creation of the ritual of the triumph in its classical form.⁵¹

If a late fourth-century dating of the triumph can be maintained, the choice of representing the victor by a (fictitious) terra-cotta image that was also in use in other ritual contexts must have been deliberate. It gave

prominence to the ritual associations of the statue and thereby stressed the exercise of senatorial control, even as, in a second step, the setting up of, and the choice of material for, a permanent statue left room for differentiation or, perhaps, accommodation to further development in either technical standards or semantic distinctions. Bronze statues became a minimum standard for honorific statues; gilding would be an exceptional honor.⁵² A chryselephantine statue, on the other hand, indicated a definite transgression of the boundary between man and god. It was employed in the final honors for the dictator Caesar.⁵³ Whereas pedestrian statues became regular for magistrates who died during embassies,⁵⁴ a representation on horseback or even on a *currus* would be given to victorious magistrates or persons who had exceptionally distinguished themselves in service to the *res publica*. But again it has to be stressed that it was not the public statue that was central. Statues were erected by many individuals and groups. Their status derived from the prior, public ritual, thus blurring the difference between public and private.⁵⁵ Ritualization, forcing private actions into public form and space, must have been seen as a powerful strategy by Roman protagonists of the middle Republic.

Changes in Ritual

As Versnel was able to demonstrate, the *honor* of the triumph was never seen as an honor for the gods.⁵⁶ Honoring the gods was the function of *supplicationes*, festivals of thanksgiving that were decreed “in the name of the victor,” as the later formula ran,⁵⁷ once reports of the victory had been received. From a religious point of view, the strict separation of human and divine honors was necessary. While it was possible to deny a triumph to the general, the *res publica* could not dare to withhold what was due to the gods. Still, problems remain. After all, the triumphal ritual involved the deposition of the laurel wreath to Iuppiter and the sacrifice of oxen on the Capitoline, which would have been owed to the gods. How are these actions related to honoring the general? We have to look for precedents and influences on the “systematized” triumph, apart from the Hellenistic *pompae* on which it was so clearly modeled in its ostentatious display of booty.⁵⁸

Before the consolidation of the new republican nobility, Rome’s aristocracy engaged in “gentilician warfare.” Gentilician warfare was an enterprise of individual families, perhaps for their personal enrichment, but, at the same time, a public problem.⁵⁹ These wars only gradually became a matter for the

entire commonwealth. We may expect that earlier rites of return from military campaigns were understood as religious obligations on the part of the leaders. They had to fulfill their vows and dedicate part of the booty to specific deities. The deities to whom this dedication was made might have been chosen according to the individual inclination of the general, family tradition, or more general rules, a reflection of which we can perhaps still capture in the so-called *leges regiae*, the royal laws that defined the dedication of *spolia opima*, the spoils taken from the opposing leader.⁶⁰ It is crucial to note that the Romans understood these regulations to involve the victorious general moving on his feet as he himself carried the spoils during the act of dedication. Of equal importance is the fact that the return to the city and its boundary would have been a highly marked occasion. Rome was completely walled during the early Republic, and entering the city with an armed force must have been restricted or even banned.⁶¹

Augustan historiography and antiquarian research assimilated one to another and all to the triumph: the varied ritual performances of the *ovatio*, the entering on foot; the *triumphus in monte Albano*, a triumph at the federal sanctuary, which was celebrated for the first time in 231 and did not require the Senate's consent; and the special form of dedication associated with the spoils of the hostile general, the *spolia opima*.⁶² Nonetheless, the "real" triumph decreed by the Senate differed from the Alban triumph as regards location—the Roman Capitol, instead of the federal sanctuary—and from the *ovatio* and the dedication of the *spolia opima* in how the general moved during the ritual. He advanced standing on a chariot rather than approaching on foot. The red paint used to assimilate the *triumphator* to a motionless statue would have further highlighted the difference. Subordinating warfare and its gains to the control of the senatorial nobility at large was important because the successful conclusion of warfare brought enormous material benefits to the victorious general and opened many opportunities for prestigious ritual activity.⁶³ The range of ritual alternatives to the triumph just delineated, the amount of private statuary in public spaces, and the frequent granting of dubious triumphs give an indication of the stakes in this arena, as well as of the Senate's success in channeling private ambition into approved forms.⁶⁴

So understood, the new processional ritual conforms to the growing importance of the publicity and visibility of Roman rituals as delineated in Chapter 3. It should be pointed out that another military procession, the so-called *transvectio equitum*, may have been invented only shortly afterward,

supposedly in 304.⁶⁵ The gods were honored by the display of booty, too. Other rituals of thanksgiving, called *supplicationes*, took place before the celebration of the triumph. And the general was expected to discharge his personal obligations to the divinities afterward, beyond the sacrifice to Iuppiter that concluded the triumph and corresponded to the vow taken at the general's departure.

Finally, the name of the new ritual offers the best indicator of its import: *triumphus* and *triumphator* derive from the exclamation *triumphe*, which must initially have been a cry of mockery, directed at the general forced to stand unmoving on his chariot, playing his own statue. We are dealing with a form of *iambizein*, which focused its satirizing thrust on the chief protagonist of the triumph, as it did in the *pompa funebris* with the important and rich deceased.⁶⁶ The mockery of the soldiers was not apotropaic but rather formed a rite of reversal—and offered substantial public critique—in the presence of, and in respect to, a superior who had enjoyed power over the life and death of his inferiors and was now confined to immobility by the rite.

Media of Representation

The triumph was a serious matter. Many members of Rome's ruling elite vied for the honor. What is more, temporary appearance as a godlike statue endowed other, permanent media with greater symbolic value. To be permanently represented by a statue in a public place, a distinction previously by and large restricted to divinities, was as close to "immortality" as a Roman aristocrat could get.⁶⁷ The prestige was immense, and the Romans devoted considerable ingenuity to enhancing the visual impact of individual statues even further. Some statues demanded attention by being put up next to monuments of colossal size, such as larger-than-life statues of Iuppiter and Hercules.⁶⁸ Others stood out by being elevated on columns or arches.⁶⁹ Dress was an index of difference as well: some chose representation in armor; others preferred the *toga*.⁷⁰ The statue built or given on the basis of a triumph soon became the pinnacle and center of a much wider practice. If consuls leading a *pompa triumphalis* were honored with *quadrigae*, why not give chariots to praetors and aediles leading a *pompa circensis*? In any case, playing a role in a processional rite functioned as the criterion of legitimacy for the public display of a statue.⁷¹

Still, Roman culture was first and foremost theatrical.⁷² Frequently backed by additional public money, Roman generals of the middle and late Republic often used part of their military booty to build temples, but, as Eric Orlin has pointed out, nineteen out of twenty preferred to spend their booty on games. In contrast to temples, which were owned by deities, the generals themselves could preside over games.⁷³ Likewise, it was the procession of the triumph, rather than the statue, that made the largest impression upon the Roman populace. Even the emperors, at a time when most generals could no longer hope to celebrate their own triumphal procession, did not object to a bronze statue at the center of the *ornamenta triumphalia*.⁷⁴ By using the term *ovans triumphavi* in his *Res gestae*—"I triumphed in ovation"—Augustus employed another strategy to separate triumphal honors and the *pompa* proper.⁷⁵

The triumph thus reconstructed also affords a new perspective on the history of art. The temporary work of art that consisted in the living statue of the *triumphator* stood at the apex of a growing number of forms and media of improvised "temporary images" such as paintings, soldiers, or captives.⁷⁶ It is here that we have to look for the Roman origins of triumphal painting.⁷⁷ Henner von Hesberg used the term "temporary images" (*temporäre Bilder*) to describe nearly contemporaneous practices at Hellenistic courts, such as is documented for us by Callixenus's lengthy description of a festival arranged by Ptolemaios II.⁷⁸ To judge from the lengthy descriptions that the extraordinary triumphs of Aemilius Paulus and Pompey received, it was this visual element out of the whole complex that drew public interest and afforded any particular celebration the best chances to enter into the literary tradition.⁷⁹ The development of the triumph in the historical period can then be described in terms of increased theatricalization: the ritual dress, originally simply denoting unsurpassable authority and hence designated *ornatus Iovis*,⁸⁰ was gradually elaborated into a *tunica palmata* and *toga picta*,⁸¹ and was used on further occasions and in statuary representations. Ultimately the triumph became one among several occasions when military success received public commemoration in the iconography of rituals, victory celebrations, and the public conclusion of treaties.⁸² Ida Östenberg has rightly stressed the character of the triumph as a performance informing a worldview far beyond momentary political constellations.⁸³

The honorific statue remains of crucial importance. There is a discourse about statues in our literary sources, and, at least in the time of Cicero, this discourse was very important. His Verrine orations bear witness to this. Statues of Marius were put up and removed; Verres' intentions and his prestige

with the Sicilians can be tested by his and their dealings with statues. To a large extent, the discourse on Caesar's desire for deification is a discourse about statues. Once honorific statues had started to fill public space, memorial statues of historically important people, of kings and liberators, were added.⁸⁴ Statues helped to create complex mnemotopes.⁸⁵ *Damnationes memoriae* tried to make sure that the persons annihilated disappeared from these mnemotopes, too.⁸⁶ What is more, statues were not just representations of individuals; they could also convey messages relating to collective values, as is demonstrated by the generally stern mien of Roman statues.⁸⁷ Finally, when Roman coinage started to develop its individualism in the last third of the second century, representations of statues were among the first personal, or rather family-oriented motifs.⁸⁸

There is a curious consequence of the conceptual relationship between the triumph and public honorific statues. Only one group of Romans was formally equivalent to *triumphatores*, namely the *virgines Vestales*. Both shared the right to be buried within the boundaries of the city,⁸⁹ and they are the two earliest groups in Roman historical memory to receive public statues.⁹⁰ When the honoring of Livia in 9 B.C.E. firmly turned the rare practice of giving statues to women into a prerogative of the imperial *domus*, the various cultural institutions mobilized to affirm that award not only associated her with the Vestals but established direct connections with the triumph as well. She was therefore credited with *omina* that predicted her giving birth to future *triumphatores*; she also organized a banquet for the women of Rome, parallel to Tiberius's triumphal banquet following his *ovatio*, staged on behalf of Drusus.⁹¹ As a *triumphator*, Livia's right to a public statue was beyond discussion.⁹²

Pompa imaginum

A further mode of representing honorific statues in republican Rome has to be considered. It is possible to conceive of the entourage of dead ancestors, actualized by actors wearing masks who formed the procession that led a recently deceased former magistrate of the Republic from his house to the place of burning or burial, as consisting of all those members of the family who had been awarded, or at least had the right to, a legitimate honorific statue. While we do not know whether every aedile of the late Republic

received the statue that was his due during his lifetime, I suspect that they did.

Harriet Flower has argued that those aspects of the ritual that involved the mask and the laudatory speech cannot be older than the end of the fourth century. *Termini post quem* (or contemporaneous processes) are the aforementioned restructuring of the Forum—the place where the *laudatio funebris* was delivered—and the emergence of individualistic statuary portraits.⁹³ Flower, however, had to leave open a crucial problem that also looms large in all previous studies on the history of the masks. What are the ritual and artificial antecedents of those masks that—according to the classic description by Polybius—tried to portray the dead ancestors as realistically as possible?⁹⁴ The traditional explanation, which invoked magic rituals applied to the dead and posited a connection to a death mask (as was still maintained by Heinrich Drerup in 1980), has by now been soundly refuted on the grounds of archaeological and literary evidence.⁹⁵ But the problem disappears if one applies the concept of the temporary image to the ritual.

If the masks were intended to copy existing honorific statues or fictive memorial ones—as the row of ancestors grew longer and longer, due to late republican competition and historical fiction⁹⁶—one need no longer worry about the masks' origin. They were either historical copies of models used for the production of the statues themselves or easily copied from the actual statue. Hence the proliferation of masks of common ancestors that would be used in many agnate and cognate families at the same time was no technical problem. At the same time, the known statues would have set standards of individuality and limits to license: similarity, not innovation, was a necessity.

Recent research has stressed the convergence of masks and statues. There was no *ius imaginum* as a common basis for their individual developments.⁹⁷ Rather, the proliferation of statues was the primary factor, finally reaching down to aediles. Despite Flower's efforts to play down all the other forms of portraits,⁹⁸ already Hölscher, who thought of "historical" masks and statues as parallel developments, demonstrated that the ancient discourse was much more concerned with statues than with ancestor masks.⁹⁹ The *pompa imaginum* and the *laudatio funebris* must be seen as attempts to further, perhaps even to reactualize, the impression of the honorific statues with a focus on a family. By no more elaborate means than cheap masks, actors, and oratory, the family ensemble could be produced and displayed—indeed, the family could also be defined, according to convenience and contingency.¹⁰⁰ Here,

again, it might be possible to detect influence from Greek use of temporary images, in the form of festival practices that delight in the visualization of groups of people, perhaps even genealogies.¹⁰¹ That said, in contrast to the Hellenistic festivals, which centered on courts that were locally fixed and which would therefore stress the arrangement of real statuary, Roman practice, as part of a competition within a multifocal aristocracy, laid stress on rituals in public space and on actors performing as statues, a feature also popular in festivals of early Hellenism.¹⁰²

None of this excludes statuary programs in private villas, shown in the context of private festivals. The presentation of masks and *tituli* to clients and visitors in the *atrium* of the house of a Roman noble attests to a desire for the display of lineage, and also to the limits of this desire. More impressive arrangements than closed cupboards and genealogical trees were possible!¹⁰³ Even if they were better preserved, neither masks nor the cupboards that housed them would dominate the archaeological records from Roman villas; that role is reserved for full-fledged portrait busts and statuary.¹⁰⁴ It is only by means of a spectacular location that the mask could be endowed with permanent importance: the depositing of the mask of Scipio Africanus in the temple of Iuppiter¹⁰⁵ was such an undertaking, gaining its relevance not from the inherent quality of the mask but from the disjunction of the public location and the intimate, domestic object.¹⁰⁶

My thesis has several further advantages. The ancient Romans were strikingly preoccupied with, and careful in, their dealings with spirits and shadows, as evinced by such festivals as the Parentalia, the Lemuria, and the *kalendae fabariae*.¹⁰⁷ This preoccupation would seem to make their nonchalance about the appearance of dead ancestors during the *pompa funebris* strikingly odd. But if the mask-wearing actors who represented these ancestors were seen as representing statues, rather than dead persons,¹⁰⁸ the apparent oddity that the Romans did not seem to worry about dead people rumbling through their city would disappear. A procession formed by living statues was much more comfortable to deal with. By the time of Dionysios of Halikarnassos, but probably much earlier, perhaps right from the start, the satirical figures of the *pompa circensis*, too, formed part of, or had entered into, the funeral *exsequiae*.¹⁰⁹ In imperial times, as is attested exclusively for the funeral of Vespasian (though it is described as *mos*, as customary), the actors bearing the masks ceased to imitate motionless statues, to be carried around in chariots as in the time of Polybius,¹¹⁰ but started to interact with the

spectators. Having heard that the *pompa* cost ten million sesterces, the mime Favor, imitating Vespasian in words and deeds, cried out: "Give me just one hundred thousand and throw me into the Tiber!"¹¹¹

Such sums were necessary not just to pay for the actors, but to attract the necessary public with the promise of a subsequent lavish banquet and *munera*, gladiatorial shows.¹¹² The temporary medium of the ritual had its prize, too. And yet there is an important difference as regards the triumph. Whereas the triumph as a ritual was depicted and carved into reliefs, not a single instance of an ancient representation of the *pompa imaginum* is known.¹¹³ This observation has a chronological implication: in the empire, the heyday of preserved reliefs, the *pompa imaginum* had already fallen into disuse.¹¹⁴ But I suggest that there is another reason as well. Whereas the triumph was an argument in itself, the funerary procession did no more and no less than represent and re-present (by and large) existing statuary. Over time, it was not the ritual but the number of statues that was multiplied—again, the aftermath of the *funus* is a typical context for the creation of public honorific statues for women.¹¹⁵ Finally, one further difference should be pointed out. The triumph—normally—presupposed a senatorial decision on the legitimacy of the general's claim to be honored. Such formalized control is lacking for the *funus*. Partly as a consequence of this, the funeral was also the site for more variegated forms of competition. Descent from every notable Roman family and even gods was claimed, but not always believed.¹¹⁶ Nonetheless, that is where interest centered. The documentation of such claims was better left to historiography than to reliefs. The processes of canonization that followed, as were undertaken in the historiography of the first century and supported by inscriptional lists and statuary programs, took much longer.

Statues and Immortality

In closing, it now has to be asked why statues were important enough to attract such a degree of ritualization. We know nothing about Roman attitudes in regard to images of deities in the fourth century. As the Romans shared the combination of temple and cult image; the combination of sacrifices at an altar outside the temple and presentation of food inside, in front of a cult statue; and the cultivation of sanctuaries, altars, and sacred groves with many Mediterranean cultures, we could suppose that their attitude

toward images did not differ in principle from what we know about Greek attitudes. Those were far-ranging and varied according to situation. Identification of image and deity through address of a statue probably coexisted with a clear conception of statues as human artifacts.¹¹⁷ An analogous ambivalence was lurking behind statuary representations of humans. In his discourse about statues in his speeches against Verres, Cicero credited contemporary Greeks with an irrevocable feeling that statues of humans had a divine dimension.¹¹⁸ In contrast to Cicero, we have no reason not to extend this notion to Romans of the first as well as the fourth century, even as they maintained, all too insistently, a focus on difference.¹¹⁹ As stated before, bronze statues in public spaces were as close to immortality as a mortal could come during his lifetime.¹²⁰ Peter Stewart has shown that images on tombstones frequently depict statues or busts of the deceased, not the persons proper.¹²¹ Statues embodied memory,¹²² social eternity. Thus the preoccupation, indeed the obsession, with a statue is understandable.

Honorific statues were more than symbols of the self-esteem of the nobility.¹²³ The mechanisms involved in the elevation of statues to public awareness continued into and throughout the Principate; indeed, they were part of a history that led to—and survived—Byzantine iconoclasm. The development of the triumph under Augustus offers a splendid illustration. The first *princeps* monopolized the triumph for the emperor and members of the imperial family.¹²⁴ A similar development can be detected as regards *pompae funebres*, which acquired a new orientation toward the imperial household.¹²⁵ In both cases, the emperor put his stamp on large theatrical rituals.¹²⁶

Augustus did not, however, triumph himself after establishing his monopoly. The permanence of victorious power, its felicity, could no longer be adequately expressed by setting up new statues among the mass of existing ones. But even as the inflationary character of the medium might seem to have run its course, the context changed: Augustus was not seeking to differentiate himself from his aristocratic peers, nor was his audience simple or unitary. In Rome, at least, small statuettes of Augustus between *genii* or *lares* were more important than another life-size statue in the Forum.¹²⁷ Triumphal practice now concentrated on the new temple of Mars Ultor, where triumphal imagery abounded.¹²⁸ And in the long run, the triumph lost its processional character and was concentrated in the circus.¹²⁹ The huge investment of the regime in coins and in the inscriptional copies of the *Res gestae* demonstrates the importance of representation in other media from Augustus onward.

As a result, the meaning of the triumph changed. In his *Res gestae*, Augustus described himself as having triumphed *ovans*, thus defining an important alternative to the triumph, the *ovatio*, as a mere variant.¹³⁰ The triumph became the urban form of a set of mechanisms for the appropriation of victory, rivaling the monumental *tropaia* built in the provinces.¹³¹ The imperial monopoly on victory implied a monopoly on triumphs. As a result, even the most prestigious statues could be given without any prior procession. The collegial conception of rulership that rose to prominence in the late empire was reflected in the setting up of groups of statues, irrespective of the actual participation of any one or more members of the college in any given military campaign.¹³² And for their statues, the emperors could then use a seated position—on a four-wheeled vehicle, a *carpentum*—as they now appeared in the procession the triumph had become.¹³³

But this was not the only transformation the triumph underwent in the high and late empire. The figuring of *triumphator* as statue received new stress and new actualizations. Trajan, for example, even celebrated his triumph posthumously, as a statue—without obvious theological difficulties.¹³⁴ Constantius II entered Rome in 357 in a processional manner, immobile as a statue, according to the description of Ammianus Marcellinus.¹³⁵ Yet it was triumphal ritual a generation earlier that rendered most explicit the connection between procession and the erection of a real statue. The occasion was the erection of a statue of Constantine on the day of the consecration of Constantinople, 11 May 330: “The statue in the Forum received many solemn hymns. The governor Olbianus, the *spatarii*, the *cubicularii*, and also the *silentiarii*, forming an escort with white candles, all dressed in white garments, brought it raised on a carriage . . . it was revered as the Tyche of the city by all, including the army. And finally it was raised on a pillar in the presence of the priest and the procession, and everyone crying out the *Kyrie eleison* a hundred times.”¹³⁶ In a Christian city, *io triumphe* had to be dropped.

Conclusion: Inventing the Triumph

How large a victory was necessary to justify the occupation of a place in the center of the city by a private monument? Romans in the early Principate cited numerous rules—for example, that so many enemies must be killed—but they stand at the end of a sequence of debates that had been initiated by

the late fourth century. What is “public”? What is obligatory, what is left to the discretion of the individual victor? Questions such as these were raised and answered by ritualization, as we have seen in this long chapter. The solutions that the Romans crafted suggest that the problems were not framed as theological ones, concerning divine status, at least not in any narrow sense. Implicitly, however, religion was involved: public control and religious form went hand in hand, and both proliferated. The spread of the cult of “divine qualities” or “abstract deities” was a contemporaneous phenomenon.¹³⁷ To label the complex of such processes as “systematization” is a far-reaching claim. It becomes plausible only when the information on ritual and god-heads is studied in the light of other, more explicit developments in theoretical rationalization, ones related to the usage of writing. To such processes we now turn.

Chapter 6

Writing and Systematization

The analysis of rituals in the previous chapters has shown changes in the forms and functions of religious communication. Beyond the emergence of a field that we more and more plausibly describe as “religion,” these developments are indicative of social change. In a growing city, communication between different groups beyond those connected by more narrowly social ties became more and more important, and the notion of the public was clarified and its realm extended. To speak of rationalization in these contexts might appear audacious; and to be sure, rationalization is difficult to identify and verify. Rather, what the evidence of an ancient society allows us to see is the development of religious forms and institutions. These betray clear signs of processes of systematization: the extrapolation and articulation of norms regulating all public activities, but in particular religious ones, as well as the development of institutions intended to ensure and control the continuance of religious activity, and to constrain innovation, under the governance of those norms. The foremost institution of this latter kind was the public priesthood; and the organization of the public priests into colleges (*collegia*) is in itself an important part of systematization, right from the beginning of the third century to the end of the Republic. The most important background to these activities is the further spread of literacy and the development on the one hand of the institutionalized use of writing,¹ and on the other of a differentiated set of communicative forms or genres.

After an extended discussion of dramatic performances and their texts, this chapter will sketch the development of other areas of literary communication in the third and second centuries. In particular, I will show how early epic served to systematize knowledge, even religious knowledge. Coming as it does at the start of a series of chapters on specific texts or groups of texts, the main thrust of this chapter is, however, methodological. In claiming that

republican epic had its *Sitz im Leben* in the aristocratic banquet and historiography in private reading. I am drawing attention to my initial metaphor of insular rationalization. In terms of producers and recipients, no unified space of literary communication existed. If rationalization is a trend of the period between 240 and 40, it is a multifaceted and incoherent development, which needs careful reconstruction.

Spaces of Literary Communication

If we summarize the spaces of literary communication at Rome at the beginning of the third century (taking up and furthering the institutional analysis performed in Chapter 2), in order of diminishing size the following institutional settings should be named: the large public rituals, including the growing number of games; the public funeral (*funus publicum*) of magistrates;² and the varied forms of the political public that gathered in assemblies, the Senate, and the law courts.³ In their early form, the *collegia* of public priests operated at a level between such formal meetings, on the one hand, and the banquets of the higher echelons of society, on the other. Later to be filled by public voting, the colleges of this early period used banquets as their most important internal forum of communication.⁴ An important and related change in the organization of communication that received both social and institutional expression was the slow emergence of the school as an institution apart from the family. According to Plutarch,⁵ the first public school for writing (*grammatodidaskaleion*)—public, that is, in the sense of accessible for a fee⁶—was founded in the 240s or 230s.⁷ That said, we should neglect neither the family, which remained the most important institution of socialization, nor the *otium* of members of the elite, which was increasingly figured as a (transcendent) place for private, individual, and hence written production and reading—consumption—of texts. The choice of 300 is pointed, as this was a period that witnessed major changes not only in the political sphere, especially the end of the so-called conflict of orders, but also in culture at large, including, not least, the creation of a new image of Rome's own past through a rigorous selection of existing traditions.⁸

Which types of texts were used in these publics? Where did writing become important?⁹ One should name first *carmina*, meaning songs but also hymns: according to the Varronian reconstruction of the history of theater at

Rome, songs were important in the games from an early date. When combined with dancing, these led to the armed dances of the *ludiones* and, later, with the addition of dialogue between different speakers as well as choirs, to dramatic forms already before Livius Andronicus.¹⁰ Varro supposes incipient writing for this period: *sed impletas modis saturas descripto iam ad tibicinem cantu motuque congruenti peragebant*—"but they performed mixed metric verses in a melody written down for the fluteplayer and with fitting movements."¹¹ Oscan *atellana* may have entered Rome at a rather late date, namely during the third century, and parallel to Greek drama rather than as a precursor of the latter. In addition to hymns and songs, the mocking verses known from triumphs should be mentioned: these might be subsumed under the term *versus fescennini*, "Fescennine verses," a term important in ancient histories of literature, though it is there reserved for the mocking of persons in private rituals (e.g., weddings).¹² It is probably from the *ludi Romani* of 240 onward that the use of scripts for dramatic performances at Rome could be supposed.¹³ Dramatic performances are foreshadowed in the *funera publica*, public rituals combining a laudatory speech, the *laudatio funebris*, with the *pompa imaginum*, the statuary representation of successful ancestors by living persons.

In the political and juridical realms, writing had long been used to fix the text of laws, and then for the documentation of other decisions. The laws of the Twelve Tables must be mentioned, even if the fixing of its text might have been rather a process of secondary canonization by (fictitious) quoting and commenting. Apart from that, writing may have been used only rarely in the operations of government: it is clear that lists of magistrates did not yet exist.¹⁴ Protocols of meetings or actions seem to become regular only by the middle of the third century.¹⁵ Writing appears to have achieved decisive influence early only in contact with foreign peoples, in "diplomatic" communication.¹⁶ The primary form of public communication was oral speeches.

The Roman banquet was similar to the Greek "symposium," a social form focusing on drinking that may also have existed in Rome but is not thematized in Latin sources. In any case, eating was more important.¹⁷ The banquet included songs. Although aristocratic banquets encountered criticism at least by the time of Cato the Elder during the first half of the second century, not least in debates over sumptuary legislation, the institution remained alive as a medium for the education of young males.¹⁸ The songs at such occasions must have been supplemented by prose narrative, in the banquet as in family life more generally.

Mentioning banquets necessitates a remark on Roman epic.¹⁹ Three texts, with an increasing number of fragments, are known from the relevant epoch: *Odussia* by Livius Andronicus, *Bellum Poenicum* by Naevius, and the *Annales* by Ennius. The last named was written in the 180s and 170s. The chronology of the two earlier texts is controversial. Nevertheless, because dramatic performance seems clearly to have provided the context for literary production in Rome at this period, one should not set these epics too early. That said, Naevius can hardly have been born much later than 280, and so his later works cannot be dated much later than the Second Punic War.

What social place was occupied by early Roman epic, and what part did literacy play in its production and performance? Friedrich Leo, for one, has argued that the spread of epic proceeded alongside the book trade, and, indeed, that the latter was imported together with the *Odussia*.²⁰ He has likewise suggested that this epic, despite its innovative character, occupied an important place in education from the middle of the third century.²¹ These positions strike me as untenable. The latter question may therefore be answered quickly. In this case, literacy was literacy of production. In regard to the first question, if one asks where we might imagine the monologic recitation of such a long text, at a time when recitation remained the primary mode of distribution, the banquet is easily identified as the most probable place. This hypothesis can be supported by three arguments, which I state here in summary form.

(1) In the banquet an author who produced Latin epics from Greek models could nonetheless refer to an indigenous tradition of unknown age,²² namely the *carmina convivalia*, a term we might translate “symposiastic poetry.” Nor was continuity between “modern” epic and earlier tradition merely notional or ideological: it was manifested with regard to both form and content. Maintaining the Saturnian form, as Livius and Naevius did, ensured continuity of form, while mythological-historical content persisted in the work of Naevius and Ennius, in addition to panegyric matters and arrangements full of praise.²³

(2) In the surviving texts of epic of this period, several hints at symposiastic situations are found. Even the famous *ekphrasis* of Naevius need not be related to the temple of Agrigento or architectonic copies of it but could be interpreted as referring to a beaten goblet.²⁴

(3) The textual structure of the three early epics meets the requirements of oral recitation. Some years ago Werner Suerbaum called attention to explicit statements about one-roll editions of Livius and Naevius and carefully

investigated the transmitted number of books. In this way he established that the two epics are supposed to have had at most 1,850 Saturnian verses, and in the case of Livius probably far fewer.²⁵ In spite of later efforts to break up these texts into multiple books, in order to conform to then-normative conceptions of epic, these poems could have been recited in one evening. For his part, Ennius reduced the number of verses per unit of the form to something on the order of 700 verses. At least for the sixth book, this number is suggested by a Herculanean papyrus.²⁶ Ennius's books were composed as independent unities. Although he extended his original plan several times before he died, that occurred not because he could not stop, as it were, but was possible because he was able to produce successful texts of the type without merely repeating himself.

Change in our period started with the scripturalization of existing genres—if it occurred in this period at all. The claim must be qualified because our knowledge is restricted to famous exceptions like Ap. Claudius Caecus at the turn of the third century, of whose work by the time of Cicero a single speech against Pyrrhus's legate Cineas from 280 could still be read.²⁷ Whatever the historicity of this text, it remains an isolated datum. Larger numbers of speeches were transmitted only later, from the time of Cato the Elder onward. In his case, the speeches were probably preserved as part of his own historiography and only later separated from those texts.²⁸

Late in this period funerary speeches began to be transmitted in written form: Pliny the Elder could quote from a speech of the year 221, given by the son of the dead *pontifex maximus* L. Caecilius Metellus.²⁹ Such a *laudatio funebris* might have been handed down within a family, ready to be reused at the next possible opportunity. Thus “publication” was assured not by writing, but by the ritual. The dissemination of such texts in writing seems to belong to the period after Cato. Again, the most successful genre was drama; again, writing was a medium of production and preparation, while the actual bringing of the work to the attention and knowledge of the public was done in the context of ritual performance, namely the games. The opportunity to hear Greek works in translation and the benefits to the presiding magistrate of organizing a performance for the public were important factors in enlarging the audience for these events.

The social position of those who produced the writing must also be considered. In 207 Livius Andronicus's cultic hymn caused the *collegium scribarum histrionumque*, the association of writers and actors, to achieve official acceptance, in the form of a grant of a seat at the temple of Minerva on the

Aventine.³⁰ In this manner, writers—including poets—were accepted as a legitimate part of Roman society. This clearly took place at a time when literacy levels among the population as a whole were still very low: although the skills of literacy were used in law and administration and to a limited degree in politics, literacy was still understood as the province of writers. The special position of people able to write, or, more precisely, people completely able to write, as late as the end of the third century, is also reflected in the use at that time of the term *scriba pontificum*, “scribe of the pontiffs,” to refer to the minor pontiffs (*pontifices minores*), as they were called from the first century on.³¹ Despite their being responsible for a broad range of cultic tasks, it was writing that was pointed out in their functional description.

A Case Study: Epic

These very general remarks can be elaborated through examination of an exemplary case already remarked upon in some detail. Processes like the transfer of the literary genre “epic” must be seen in the framework of the development of the entire system of literary communication. In this way, we may be able to overcome a fixation on “genres”—already observable in antiquity—through the analysis of communicative spaces. Crucial to this argument is the basic fact that the social influence of technologies of literacy gains in strength even when those technologies remain limited in application: in this case, when they serve only in the narrow realm of processes of production, rather than more generally in the dissemination of texts.³² The greatest changes are connected to the intensification of communication between the governing class and the *populus*, which served to compensate for increasing social differentiation, and also for the heightened demands for military service then being placed on large sectors of the population. This is the context in which we should situate the ever-increasing social space given to the dramatic genres: these, in the framework of the games, supplemented direct address to the people in the form of political speeches and the *laudatio funebris* at public funerals of officials.³³ The relevance of Plautus and Livy to this argument has been touched upon already.

Consideration of a much more private form of text allows the complexity of this overall process to be better understood. I have argued that epic was a symposiastic genre in Rome.³⁴ Why was such a genre put into writing? Again, I have argued that at Rome in this period, textualization should be understood

as the capturing of a text in writing during its production; only secondarily—although early on—did writing serve to facilitate the circulation of texts. This involves a double achievement. The change of medium—and here I adopt the metaphor used by Haiko Wandhoff in his analysis of medieval epic³⁵—effects “connectivity” by attaching the audience to a network. What the noble Roman drinkers (and eaters) of the third century were still lacking was an orientation of their own society and history to the international traditions of the Mediterranean world, especially to Greek mythology and history.³⁶

Precisely this connection could be made by epic, which formed a bridge from Greek mythology to Roman history. Livius Andronicus chose the figure of Odysseus, who, in his journeys, “coordinates” large portions of the Mediterranean world. By means of the Dido episode and the figure of Aeneas, Naevius attached the most important recent event in foreign affairs, namely the conflict between Rome and Carthage, to the early Trojan history of the Greeks and the Carthaginians.³⁷ Such connections did not arise out of nowhere. Greek myths present themselves to archaeology even earlier: Timaios interpreted the Roman ritual of the October Horse as a Roman ritual of revenge for the conquest of Troy at the beginning of the third century.³⁸ But such statements were made by Greeks,³⁹ in whose perspective these amounted to mere localizations of detail in a larger and denser world than that of contemporary Romans.

In the case of Roman culture, this was a process of being “plugged into the scriptographic grid,”⁴⁰ inasmuch as it was not merely a matter of reception of Greek knowledge, mediated through illustrations on vases and statues or through particular theater performances.⁴¹ Instead, the culture could now draw on written texts, which were translated, modified, and recombined. This serves to explain why early Roman epic makes such extensive use of more ancient Greek epic and Greek knowledge.⁴² While the poets proceeded from the *Sitz im Leben* of Hellenistic epic, they did not simply transpose contemporary panegyric onto Roman conditions. The mythological-historical-geographical apparatus is not merely decoration; it is instead the fundamental purpose of this new type of text, although the articulation of this apparatus was not an end in itself but was always oriented to the vanishing point of the present and its claims.⁴³

If we consider previous Roman narrative traditions in terms of oral poetry, that is, as a traditional text that acquires a stabilized form after numerous repetitions but is also adapted to the needs of each particular gathering, it becomes clear that the conditions for an unproblematic integration of new

material and new themes into oral tradition did not obtain. These conditions include an ample store of formulae that can be used flexibly and for new situations, and a system of familiar figures, patterns of relationship, locations, and qualifications, including descriptive adjectives. Under the circumstances—which were compounded by a lack of professional bards at Rome—written production instead of composition in performance therefore became necessary.

The other achievement, connected with this first one but needing separate analysis, consisted in the systematization and documentation of detail made possible by fixity of textualization. The connection to an expanded Greek mythology, chronology, and geography required a systematic reconstruction of the Romans' own corresponding fields of knowledge and also made their expansion possible.⁴⁴ If we disregard the arbitrariness of the surviving fragments, apart from his Odyssean geography, Livius Andronicus manifests particular achievements in the area of theology by placing the gods involved in genealogical relation to each other, using a dense net of data on their descent and ancestry.⁴⁵ Thus *Camena*, who substitutes for the Greek Muse, is described as *diva Monetas filia*;⁴⁶ Zeus is not simply *Iuppiter*, but *Saturni filie*; and the "Lady Hera" is *sancta puer Saturni regina*.⁴⁷ This is not merely the introduction of some Roman "local color" in a Greek story.⁴⁸ Rather, the final text reflects a two-stage process, in which the internal categories of Roman culture were initially (in the logical, not the chronological, sense) developed further (which could be described as Hellenization, although that is distracting) so that, in the second step, the Greek narratives, having been translated into Latin, could be accommodated as an extension of the Romans' own world and narrative horizon.

Naevius showed a strong interest in geography, and also in mythical genealogies.⁴⁹ His fragments likewise allude to conditions of sacral regulation.⁵⁰ Nor did Naevius shy away from specialist terminology, as is particularly apparent in fragment 2 Strzelecki = 35 Blänsdorf: *scopas atque verbenas sagmina sumpserunt*. Ennius, to whom the spectrum of available genres was far greater than simply hexametrical epic, is more difficult to characterize. He makes a manifest effort toward a more precise chronology and may have been a competitor of contemporary prose historiographers (Fabius Pictor, Cincius Alimentus).⁵¹ Those who saw themselves as a part of—or even, as soon happened, as the center of⁵²—Mediterranean history needed to be able to articulate in what chronological connection the founding of Rome stood to Troy and Carthage, and to produce elementary synchronizations at least

for important events.⁵³ It is in Ennius that we first meet double consular dating in a literary text,⁵⁴ and for this reason among others he deserves the designation “elder annalist” more than Pictor or Cincius.⁵⁵ Ennius, however, also includes systematic or systematizing documentation of religious information whose pointed verbal density occasionally brings it starkly to the fore:

*Iuno, Vesta, Minerva, Ceres, Diana, Venus, Mars,
Mercurius, Iovis, Neptunus, Vulcanus, Apollo.*⁵⁶

A similar example can be found in the collection of at least six of the twelve *Flamines minores*:

*Volturnalem Palatuaalem Furinalem Floralemque Falacrem et Pomonalem
fecit.*⁵⁷

Systematization also means, within a culture, the systematization of the claims of competing *gentes*, principally as these were articulated in terms of ancestral achievements. The sheer scale of epic poetry—which Naevius managed to fit into a single evening, but which Ennius, with more didactic skill, performed as a well-proportioned major epic—allowed now for the consideration of multiple interests and their economical rehearsal in narrative. On the basis of our knowledge of the literature of the period, Ennius’s narrative technique, with its consistent concentration on individual persons, provides the earliest impression of this dynamic in Roman poetry. The difficulties that Ennius and other poets faced in representing both individual achievement and dynamic competence on the part of the aristocracy as a whole, against a backdrop of increased competition for offices and honors in the years after the Second Punic War, can be intuited when one considers the fluid history of the consular *fasti*, with their multifarious inventions, falsifications, and redating. The homeostasis of a society that legitimizes itself through tradition requires a past appropriate to each present—a way of dealing with the past that encounters, even creates, problems as the use of written documentation increases.⁵⁸ Viewed in this light, processes of inscription in such areas truly represent a turning point in the culture.⁵⁹

As epic consolidated its place as a preeminent form of praise poetry, particularly learned epic, which depicted action against the emergent *koine*, professional poets were needed to produce metrical texts of this kind.⁶⁰ Such

individuals were not typically members of the aristocratic banqueting circle but came from outside. Thus their position was precarious. Cato the Censor tells of people who performed in a symposiastic framework and were called *crassatores* (in later Latin, *grassatores*):

*Poeticae artis honos non erat: si quis in ea re studebat aut sese ad conuiuia adplicabat, crassator uocabatur.*⁶¹

The art of poetry had no honor. If anyone pursued it zealously or attached himself to banquets, he was called “flatterer” [or “vagabond,” “bandit”].

Even if we place our trust in a gloss by Festus and interpret the term⁶² in this period not as “bandit” but as “flatterer,” the negative and predatory characterization, the characterization as parasite, remains. Here we see the epic poet entangled in a controversy over the inclusion at banquets of “entertainers” external to the aristocratic peer group. It was understood and accepted within the culture that “all mortals want to be praised” (*Ann.* 560 V), as Ennius himself practiced,⁶³ but the ambivalence and anxiety expressed by Cato no doubt meant that Ennius had at the same time to tolerate such characterizations from certain guests at the table. Another familiar banquet entertainer in the Augustan period is the *scurra*, a clown or storyteller, but he was not a respected poet.⁶⁴ In contrast, the roles of *poeta* and *vates* were to be promoted and given positive connotations, but their elevation to social prestige was a task to be achieved and should not be taken as a historical constant.⁶⁵ Ennius’s conspicuous struggle to define his own position in the context of his regular association with the nobility—equality was not an option—and to formulate a role for himself within historical epic is especially striking against the background of Greek precedent.

Early Roman epic did not fall from the sky, nor was it simply transported from a Greek cultural context as straightforward spoils of war. Its orientation to Greek precedents and forms cannot be ignored. Nonetheless, the adoption of a new type of text in a predominantly oral society represents a considerable historical development and demands historical explanation. In the Roman case, in part because of its roots in known Hellenizing forms and Roman and Hellenic content, the very first efforts to craft epic in Latin stabilized the genre sufficiently for Ennius, in the very next generation, to achieve paradigmatic authority. Epic became at Rome a poetry of books, recited in more or less stable cycles.

At the same time, the republican history of epic is not purely a success story. While epic poetry blossomed primarily at court in the Hellenistic period,⁶⁶ the evidence for both the writing and performance of epic at Rome in the second century remains surprisingly scanty. Lucius Accius's *Annales* constitute an exception: since fragment 4 Blänsdorf unambiguously depicts a battle scene, the suspicion arises that this must have been a historical epic. This poem, which is usually taken to be nonfictional in orientation, but which did not treat the sequence of years as history but rather the course of the year as a cycle of festivals, each with their *aitia*, cannot in my view be assigned any plausible literary-sociological location. Just possibly it was the ongoing individuality of epic production in the second century that led to the literarization, intellectualization, and "canonization" of early Latin epic and its reception. Early epics became school texts and, via late republican and Augustan epic in panegyric-historical style, offered points of connection for the literary-historical tradition that begins with Vergil.

Only from the end of the second century is there evidence for a fairly dense sequence of historic-panegyric epics, for example the *Bellum Histricum* by Hostius (presumably treating the period around 129) and Furius Antias's account of the consulship of Q. Lutatius Catulus. More names are known for the first century: a certain Sueius wrote a historical epic in five books; one Volusius wrote *Annales*, as did Quintus Hortensius. Marcus Tullius Cicero contributed three epics to this collection of texts: the *Marius*, possibly a work of his youth; *On His Consulship*, in three books; and, after his return from exile, *De temporibus suis*.⁶⁷ The genre reached its first climax in the Augustan period and remained vital into late antiquity, when historical epics again begin to dominate the surviving epics. The numerous *recusationes* by Augustan poets must not deceive us into thinking that historic-panegyric epics were not in fact being produced:⁶⁸ the *Carmen de bello Aegyptiaco*, perhaps a part of the *Res Romanae* of the Augustan poet Cornelius Severus, is a reminder of that.

The major alternative at Rome to the sympoisiastic epic of professional Italian poets was historiography, which was produced by members of the Roman elite themselves. In terms of network access and systematization, the achievements of historiography in this period were comparable, indeed, far more impressive in the domain of chronology.⁶⁹ Yet, if my judgment in respect to the position of history among the genres of literary production is correct, why did the first Roman writers of history, the mighty chronologists Fabius Pictor and Cincius Alimentus, write in Greek?

The answer, I suppose, is to be found in the place of such literary communication: Greek prose was hardly ever recited at *symposia*. Greek was the language of books, or, more precisely, scrolls. By contrast, the other genres we have discussed so far, despite their probable composition as texts, and their definite transmission as such, were originally received aurally. Drama took place in the theater; epic—the audible genre—at banquets. But as for those texts that one encountered primarily in their written form, the chances are that they were in Greek—apart, perhaps, from some official documents, which were instead written on tablets or even in codices. I therefore conclude these reflections with the hypothesis that with the narrative genre of historiography we possess the first type of text that had its primary reception through reading; its primary audience was Roman readers.⁷⁰ Nor was this distinction rapidly overcome: Latin did not become the language of books until Cato's *Origines* two generations later.

To sum up, in contrast to the theoretical rationalization preferred in dramatic texts, epic and historiography, which are so important for our knowledge of religion of the republican period, were used in very small groups only. The same is true for most of the texts discussed in the following chapters. Text-based rationalization enabled major advances, but access to its arguments and achievements would have been restricted to minor groups unless translated into rules. The development of law itself thus comes into my narrow focus of rationalization in the area of religion.

Chapter 7

The Pontifical Calendar and the Law

The development of the Roman calendar between the end of the fourth century and the second century can be followed in some detail. In this chapter I will advance the thesis that this development can best be analyzed as a process of rationalization. New rules are developed and coherently applied to procedures. As a whole, this process went far beyond technical changes. It had far-reaching consequences not simply for politics and religion, but for law in particular.

Watching the Moon: The Structure of the Roman Months

Reports from Roman antiquarians who wrote between the second century B.C.E. and the fifth century C.E. allow for the drafting of a detailed picture of the oldest Roman calendar. On a day close to the appearance of the new moon, a “scribe” observed the moon. This person was an assistant to a group of Roman patricians who were referred to as pontiffs and entrusted for life with all manner of domestic political issues, especially legal and sacral tasks. The goal of this observation was to estimate how many days remained until the first quarter of the moon (or a comparable set measurement). Along with the *rex sacrorum*, the scribe proceeded to a small shrine on the Capitol called Curia Calabra, which was located near the hut dedicated to the city founder Romulus, a cornerstone of historical memory. Both persons there performed a sacrifice. Afterward, the writer—later known as *pontifex minor*—addressed the goddess thus:

I call to you, Iuno Covella! I call to you, Iuno Covella! I call to you,
Iuno Covella! I call to you, Iuno Covella! I call to you, Iuno Covella!

Repeating this call five times signaled to the participants that the public assembly day, which was determined by the first quarter of the moon, would be in five days, including the day on which the sacrifice and address were performed.¹ Thus, depending on the particular phase of the moon, the period of time until the next public assembly could be announced by four or six or, indeed, even seven repetitions of the call. The wife of the *rex sacrorum*, the queen of the sacrifice (*regina sacrorum*), sacrificed a sow or a ewe to the goddess Iuno on the same day in the Regia, a cultic building at the entrance to the Forum. But it was the act of calling out, *kalo* in Latin, which gave the day its name, *kalendae*.

On the day thus announced, the people (though probably only a fraction of the few thousand inhabitants of Rome) assembled again. On this day, the announcements were of more substance. The *rex sacrorum* announced the situation of all holidays that month, presumably not only the dates but also, as relevant, the places where central rituals would be held and the festive decorations or offerings of the participants.² Such announcements were still the most important calendary act of communication in medieval churches at the beginning of each year. We know nothing of specific rituals performed on that occasion, but we can assume that the assembly also served as a forum for markets, legal business, and possibly also political gatherings. The name of the day is drawn from the interval between it and the day of the full moon, which was referred to by a word of Etruscan origins as Ides (*idus*). The “Nones” were “nine days before the Ides,” although Roman inclusive counting meant that the nine days included both the Ides and the Nones.

The Ides were the summit of the month. The whole day was *feriatus*, a festive break in some types of work. The priest of the extraordinary god Iuppiter, the Flamen Dialis, regularly sacrificed a white ram, attended by other religious specialists. The color of the animal relates to the god, who was considered the creator of the bright sky.³ The form of festivities went beyond these routine rituals, however. The oldest games—wagon racing, two-man competitions dedicated to Iuppiter or Mars—took place on the Ides, as did the *ludi Romani* in September, the *ludi Capitolini* and the October Horse in October, and later the *ludi plebei*, the “plebeian games,” in November. New Year’s rituals on the Ides of March and the sacrifice to Maia, the goddess after whom the month was named, in May, also both show that the religious formulation of the Ides was lavish and dense.

Eight days (or nine, by Roman reckoning) after the Ides, this pattern repeated itself. The later calendars show evidence of important and popular

holidays that were probably very ancient: the day of the dead, or Feralia, in February; the birthday of the city, or Parilia, in April; the feast of booths, or Neptunalia, in July; the ancient race in the valley of the Circus Maximus, or Consualia, in August; and finally the Divalia, a festival related to the winter solstice in December, dedicated to the goddess Diva Angerona.

In at least two of the months, these festivals failed to elide completely rituals that appear originally to have been monthly but were dropped or continued in a subordinate role. In both March and May, Roman calendars note a Tubilustrium, a complex of rituals that has many parallels with other structuring days in the calendrical unfolding of the month. As on the Calends, a lamb was sacrificed, and an assembly was held on the same or the following day. In later times the assembly was led by the *pontifex maximus*, the leader of the pontiffs, but the *rex sacrorum* was also involved in some manner. That said, what exactly the calendar entry *Quando rex comitiavit Fas*, “as soon as the *rex sacrorum* enters the Comitium / holds an assembly, the day is open to legal business,” means is more than we can know.

However, it was not just the assemblies known as *comitia calata* that brought the “trumpet purifications” into proximity with the other calendar rituals. The very blowing of the trumpet in the waning phase of the month is reminiscent of the ritual for strengthening the moon that was performed repeatedly during lunar eclipses.⁴ These rituals were performed by a group of religious specialists of the city of Rome, located on the periphery of the circle that the Romans referred to with the term *sacerdotia*, or “priesthoods,” granting them a special dignity. These were the Tubicines, trumpet players, commissioned for the public sacrifice (Fest. 482.27–29 L).

The calendar, as described thus far, also included another eight-day period. The temporal span from the Tubilustria, the typical festival date eight days after the Ides, to the next Calends was another *nundinum*, a nine-day unit by Roman reckoning. With that, the monthly form of this empirically derived lunar calendar, and its basis in observation, become apparent. The main day was the day of the full moon, the Ides belonging to Iuppiter. Eight days before, there was an assembly of the people, which served for the announcement of the sequence of holidays, among other things. This assembly was followed by three eight-day periods, which ended respectively with the Ides, the feasts and assemblies of the Tubilustria, and the assembly on the Calends. The only variable was the time between the Calends and the Nones. With a view to making sure the Ides fell on the next full moon, the intermediate period was determined empirically and announced. This purpose was

also abetted by the terminology used for the Calends. Since the part of the month after the Ides, with its sixteen days, was significantly longer than that before, the moon on the Calends was visible well enough after one to three days of moonless nights that a reliable judgment could be made about the period remaining until the next full moon.

The system allotted the Ides a more important role in establishing a boundary than it did the Calends: while the preceding days were long counted as days “before the Ides,” there survive vestiges of what appears to be an old way of counting “after the Ides.”⁵ In classical Roman calendars the days after the Ides, in January for example, were called “the *n*th day before the Calends of February.” Thus the visible or audible name of the month changed in the middle of January, just after the Ides.

From a Lunar to a Solar Calendar

The calendar thus far described was an empirical lunar calendar driven by observation. This was in accord with the practice found everywhere in Italy and the Mediterranean world at this time. The *Feriale* referred to as *Tabula Capuana*, a ritual calendar from around 470, is especially important here. This text regulated the cult at the shrine of Haema, near Capua, which must have been a regional cultic center.⁶ In contrast to the much younger Etruscan cultic calendar, which took the form of a written text on linen and reappeared as the text on the wrappings of the mummy of Agram, the days were not counted out on the seal from Capua, which is presently held in Berlin. Only a few repeated days with proper names were noted for each month. First come the Ides, which the Romans believed to be originally Etruscan,⁷ and which here are referred to as *isveita*. According to a late antique source, Macrobius, and his late republican sources, the Etruscans had a system of weeks in which the Nones occurred every eight days. If so, they may, like the Roman calendar just described, also have had weeks in a sequence of four structuring days (Nones, Ides, Tubilustrium, Calends), which began anew each month. The dates given on the tablet from Capua fit into this structure exactly: the Ides, which mark each new month, were followed, one week later, by a day known as *celuta* (waning moon, Tubilustrium to the Romans); then came the *tiniana*, connected to the celestial deity Tinia (or the Roman Calends, dedicated in Rome to the goddess Iuno); and finally the day called *aperta*, with the waxing moon, or the Roman Nones. The only name for a

day that has an etymological origin in a number, *macvitule*, contains the word for “five,” and thus would have fallen (assuming Roman inclusive counting) in the middle of the week. From the limited sources that survive from this period, it is not possible to determine who adopted which calendar from whom. It suffices to conclude that the calendar used by the city of Rome can be understood as a variant on middle Italian calendrical customs.

Like the other Mediterranean calendars that worked with lunar months, the Roman calendar also strove for a stable relation to the solar year, which determined the course of the natural year and hence set the rhythm for both agriculture and sailing, as well as for war. In the calendars known to us, the occasional interpolation of a thirteenth month made this correspondence possible, whether it was given a name of its own or consisted of a reduplication of one of the twelve normal months. If an extra month was included every two to three years, the relation of the lunar calendar to the solar year remained stable in the long term. Thus, such systems for reckoning time should not be called lunar calendars, but rather lunisolar calendars. They manage to reflect both the periodicity of the satellite orbiting around the earth and the orbit of the earth around the central star fairly well.

Mathematically, a formula for determining leap years can be worked out without great difficulty. The Greeks of the sixth century already knew that three leap years in eight, the so-called *Oktæteris*, rendered a very precise result. The remaining discrepancy of about one and a half days in such a cycle motivated Meton and his student Euktemon to introduce a more precise cycle around the year 432. In a nineteen-year cycle, there was to be a total of 235 lunar months, of which 125 had 30 days and 110 had 29 days.⁸ Apparently, this Metonic cycle assumes an established convention for the lunar month: the observation of the moon is replaced by the scheduled shifting from months with 30 to those with 29 days, in order to reflect the lunar cycle with its average of 29.54 days.

Remarkably, all precise historical data known to us contradict the view that these cycles were applied regularly in the major Greek cities. Those responsible often succumbed to the temptation to tamper with the system in order to extend their own term of office or tenancy, or the period during which they could exercise authority. In Rome, the fatal consequences of this practice can be observed especially well.⁹

In Rome leap years were maintained, and the Roman calendar also aimed at being a lunisolar calendar. Attempts to regulate this intercalation legally can be detected as early as the fifth century, a clear indication of the

controversy that surrounded this issue.¹⁰ Even the earliest Roman calendrical revolutions (for they can hardly be called anything else) failed to deliver any change on this point, and presumably would not have attempted to do so, had they been successful. It is no coincidence that the dictator Caesar was the first to resolve this issue.

In the fifth and fourth centuries, the Roman calendar can be considered fully integrated into the regional and metaregional context. The lunar phases were the same everywhere, while the names of the months, and when and how often monthly or yearly leaps were made, varied from place to place. Different names for months every fifteen kilometers were the rule rather than the exception in the small-scale political spaces of Italy and Greece.

Change, however, was imminent. As with the details of the earliest Roman calendar, we do not know the details of the reform. Not even its date is certain. Following Michel Humm and revoking my own earlier reconstruction from 1995, I concur that it is more plausible to connect the reform of the calendar with certain evidence on the publication of the calendar at the end of the fourth century than with dissipated and unclear, possibly fictional information on the calendrical activities of the second Roman decemvirate, a sort of state-of-emergency government in the middle of the fifth century.¹¹ The content of the reform can be deduced from the form of the pre-Julian calendar, which is known primarily from the *Fasti Antiates maiores*.

At first sight, the reformed calendar appears to correspond to the Roman lunar calendar: Calends, Nones, Ides, and Tubilustrium are all present, along with a thirteenth month called *Interkalaris*, or “<Month> called between.” The revolutionary nature of the intervention made at this time is apparent when one looks again, in particular at the last line of the calendar.

The reform affected the lengths of the months, which were henceforth fixed. January had 29 days, February 28, March 31, April 29, May 31, and so on. This produced a sum of 355 days, one day more than the average lunar calendar. Initially, this appears to amount to no more than the replacement of empirical lunar months with conventional fixed ones. The resulting error, a gradual lagging behind the phases of the moon, seems to have been compensated for by a 27-day “leap-month.” So far, everything remains in the framework of customary local variations. But an examination of this extra month reveals something extraordinary: its last five days simply replaced five days in February! This is confirmed by ancient sources.

As a result, the extra month actually added only 22 days (or sometimes 23), rather than twenty-seven. Instead of fleeing on the feast of *Regifugium*,

the “Flight of the King” (interpreted by imperial authors as a remembrance of the expulsion of the last Roman kings at the end of the sixth century), the *rex sacrorum* simply announced the Calends of the extra month on 24 February.¹² This had a fatal result in a system where the months had fixed lengths: the following year’s calendar lagged behind the full moon—and all other phases of the moon—by five to six days, and there was nothing that could be done about it. As a result, in spite of maintaining both the terminology and the ritual apparatus of its lunar phase, the Roman calendar now completely abandoned correspondence to the moon. The lunisolar calendar now purported to correspond strictly to the solar year, despite clinging to what seemed to remain an intercalatory month.

Making Time and Marking Time

The moon is a democratic clock. Anyone can easily observe its phases. Appointments made on that basis are not very exact—one can err by one or two days—but at least one is prepared. Monthly festive gatherings for the full moon do not require a newspaper and were just as widespread in Iron Age Italy as in the Near East. The sun is more demanding. The observation of the course of the sun and the rising and setting of stars at dawn or dusk requires significantly greater effort, an institutionalized memory, and specialists. Accordingly, the results of solar observation are less obvious: the claim that the days are now getting longer can be substantiated—without a clock—only after a number of weeks. Corresponding calendrical decisions thus require some power of enforcement. It then becomes a trick for the makers of time to represent themselves as mere translators, which is generally achieved by reference to the astronomical markers of time, which are adduced to legitimize the regulation of social time. We are speaking here of regulation in the sense of measurement, not the setting of time or its construction.

Viewing the late fourth-century reform from this perspective leads to a surprising insight regarding the changes in the Roman calendar then undertaken. The main motif in the reform is the abbreviation of the leap period. The old ritual practice used to consist of announcing the shift on the sixth day before the Calends of March, by redefining the day as the sixth day before the Calends of the extra month and bypassing the Flight of the King. Just celebrating the Calends of the extra month was a relatively easy solution. This method also brought with it a distinct mathematical advantage, in that

the shortening of the extra month suggested a shift every second year. The fixing of the lengths of the months was the last part of this package deal. Here again, the need for decision-making and communication was retracted, and the consequences of calendrical decisions were minimized. Whether the period between the Nones and the Calends was five or seven days (by Roman reckoning) could now be known, and it was no longer necessary to determine it anew each month.

The creation of a calendrical system free from human interference—or at least more so than it had been—fits with the larger picture of the “historical compromise” crafted among developing interest groups at Rome throughout the late fourth century. Potential sources of conflict were removed or reduced in severity, largely by removing or reducing traditional, group-based privileges. The opportunities for persons drawn only from the patrician class, holding priestly positions like those of the *rex sacrorum* and *pontifices*, to influence the form of the calendar were decreased. But the reform also had a foreign policy component. The Roman solar calendar became untranslatable, being incompatible with the lunar calendars of the surrounding peoples. This is where the reform takes on its revolutionary color. It signals a new concentration on the compact, urban *res publica*. It was no longer the extra-Roman contacts of noble families, but rather the internal cohesion and coherence of the nobility, that was to be decisive in the design and sustaining of religious action. The new calendar impeded external contacts, even as it worked in and of itself as a mark of differentiation. Rome’s Latin allies, for example, had to march to the beat of a new drummer: military operations could henceforth be coordinated only according to the Roman calendar.

This solipsism makes manifest a feeling, a mentality, that is manifest in many institutions and political decisions of the middle and late Republic, namely, the inability or unwillingness to sacrifice the image of the self-sufficient and self-determining city-state to the reality of one’s integration into an ever-larger political formation. This was not the last time in the history of the calendar that the system for marking time would be subordinated to the interests of group identity formation.

Calendar and Inscripturation

Roman tradition unanimously describes the calendar as having first been published by Gnaeus Flavius.¹³ We know little about him. He was a scribe of

Appius Claudius Caecus, one of the most important politicians around the turn of the fourth to the third century.¹⁴ Since Appius was a pontiff, “his” scribe must have been a *scriba pontificius*: in other words, Gnaeus held exactly that office to which the observation of the moon on the Calends was attached. In 304, he was elected, in the face of stiff competition, as curule aedile, thus taking the most important step up the ladder in a Roman official career.

It was probably in the context of these developments that the calendar was written down, the reform of the *comitia tributa*, dated to 312, offering the *terminus post quem*.¹⁵ Such an inscription was new not only for Rome but also for the whole of Mediterranean antiquity. Egypt had a literature that explained whether any given day of the year was good or bad, appropriate or inappropriate, for particular activities, but this literature amounted to reference works for specialists.¹⁶ In Greece there were “sacrificial calendars” in the form of inscriptions, open to the public, that documented which groups were financially responsible for which cults, but these were lists of festivals that documented a series of obligations and contributions, not calendars.¹⁷ In contrast to this, what was published at Rome was a proper calendar, an overview of all the days of the year, which may well have had the same form as can be found in the late republican wall calendar from Antium. Although the lengths of the months had been fixed and the procedure for leap years and months had been changed, these developments did not in themselves require a written calendar. All the other users of conventional lunar months in the Mediterranean world managed without such an aid.

The Roman reform, however, went beyond what was customary, in one crucial respect. A continuous sequence of weeks was introduced, an uninterrupted eight-day rhythm that continued across the ends of months. Where this rhythm had previously been readjusted on the Calends and continued only from the Nones to the next Calends, a new system was crafted, corresponding more closely to the treatment of weeks in use today, or, more precisely, to the astrological and Judeo-Christian week that we inherited from Rome in a form shortened by one day. As obvious as that may seem today, it must have been completely revolutionary in Rome at the end of the fourth century. To be sure, the Greek calendars known to us used “weeks,” but those were ten-day units structured to give rhythm to social, political, and religious activities (although many such activities were performed only in the first ten-day period). These were not, however, continuous. They started again at the beginning of each month, when necessary facilitated by the shortening of the last ten-day period

by one day in those months with twenty-nine days. On this point, Rome created a remarkable parallel to the Jewish Sabbath, which was developed during the Babylonian exile.¹⁸

Minority status and exile, however, were not exactly characteristic of the Roman situation. The newly established nine-day, or *nundinal*, rhythm was not determined by religion. The *nundinae* at the end of each nine-day period were primarily market days, when legal business could also be transacted. If we are to search for a motive for the new convention, we must look to the regulations for the public use of the days. What was essential to the Roman reform was, in any case, that the new rhythm augmented rather than replaced the old. The old system of days structuring the month remained. The calendar of holidays was oriented to this structure, and this structure also determined the position of feasts and rituals.¹⁹ The new system had only a minimal religious accent: in a fashion similar to the rituals associated with the month-structuring days, a ram was sacrificed to Iuppiter in the Regia by the Flaminica Dialis, the wife of the priest of Iuppiter.²⁰

The apparent aim of the reform was thus the separation of social function from particular dates. Along with Roman antiquarians, historians, and ethnographers like Licinianus Gracchanus, Varro, and Verrius Flaccus, we are free to believe that, as market days, the month-structuring days brought together all manner of activities. But we can also assume that the calendrical system even of the early Republic worked to separate some functions. On the Nones the assembly was dominant, and cult is lacking. The Ides were ruled by cult, and we have no evidence of political assemblies. The Tubilustrium, a week later, shows evidence of a two-day structure, with cult on the first day, the ninth day after the Ides, and the assembly postponed to the following day with the ominous letters *QRCF*. The Calends were similar.²¹

The reform completely bracketed the economic function of the market days from such complexities. Market day was market day, every eight days, regardless. In consequence, the structuring days and their rituals lost something of their attraction, and each could offer only a different festival. Sociologists would describe this as a process of differentiation: diverse social realms are assigned their own institutions. Rome at the end of the fourth century had become a major city. The decisive impulse may, however, have been political and should be seen in the context of the new definition of the patricio-plebeian nobility. Public space and public institutions were reassessed, and the rules of the game were established or clarified. The attempt to separate politics, law, and religion from economic matters and from one another

is part of this process. It was not a matter of “secularization”: defining clearly the boundaries of religion and its relation to the gods in fact offered quite new possibilities for legitimizing political institutions from outside.²² In addition, the year 300 saw the passing of the *lex Ogulnia*, which opened the priesthoods to the plebs. Religious specialists, previously recruited solely from among the patricians, now had more limited privileges, and their positions were integrated into the new nobility.²³

The amalgamation of both calendrical systems into one forced its written representation. The new nundinal system had to be derivable from the old structure. Accordingly, repetitive symbols form the framework for the entire representation of the calendar, as illustrated by the pre-Julian calendar from Latin Antium. At the beginning of the line for each day there is a letter in a repeating sequence A, B, C, D, E, F, G, H. The eight-day Roman week, continuing across monthly and yearly boundaries, is characterized by these nundinal letters. The days of the week do not have names but are defined only by the *nundinae*, the market days repeating every eight days. (In Roman terms, counting both the first and the last dates inclusively, this makes nine.) A new letter each year corresponded to the *nundinae*, so that a calendar could be used for several years. The letter marked the *nundinae* throughout the year, much as Sundays are often shaded in a different color in today’s calendars, but changed at the end of the year, as the dates of Sunday will change from year to year in our calendar.

Calendar and Law

The image of Gnaeus Flavius painted so far does not quite correspond to the evaluation of him in Roman tradition. Apparently he was accused by some contemporaries—as well as some in later history—of having committed treason by publishing the calendar and thus breaking the legal monopoly of the pontiffs. What in fact happened?

The Romans located the foundation of their civil and penal law code in the Twelve Tables, a codification of the mid-fifth century. Pomponius, an imperial lawyer, recounts the story in his *Handbook* thus:

Postea ne diutius hoc fieret, placuit publica auctoritate decem constitui uiros, per quos peterentur leges a Graecis ciuitatibus et ciuitas fundaretur legibus: quas in tabulas eboreas perscriptas pro rostris composuerunt, ut possint leges

apertius percipi: datumque est eis ius eo anno in ciuitate summum, uti leges et corrigerent, si opus esset, et interpretarentur neque prouocatio ab eis sicut a reliquis magistratibus fieret. qui ipsi animaduerterunt aliquid deesse istis primis legibus ideoque sequenti anno alias duas ad easdem tabulas adiecerunt: et ita ex accedenti appellatae sunt leges duodecim tabularum. quarum ferendarum auctorem fuisse decemuiris Hermodorum quendam Ephesium exulantem in Italia quidam rettulerunt.

After that, to put an end to this state of affairs, it was decided that there be appointed, on the authority of the people, a commission of ten men by whom were to be studied the laws of the Greek city-states and by whom their own city was to be endowed with laws. They wrote out the laws in full on ivory tablets and put the tablets together in front of the *rostra*, to make the laws all the more open to inspection. They were given during that year sovereign right in the *civitas*, to enable them to correct the laws, if there should be a need for that, and to interpret them without liability to any appeal such as lay from the rest of the magistracy. They themselves discovered a deficiency in that first batch of laws, and accordingly they added two tablets to the original set. It was from this addition that the laws of the *Twelve Tables* got their name. Some writers have reported that the man behind the enactment of these laws by the “Board of Ten” was one Hermodorus from Ephesus, who was then an exile in Italy.²⁴

It is crucial to acknowledge that we do not know exactly what form the codification took. The known fragments of this fundamental text of Roman legal history derive from commentaries dating to the early second century, and it is not known how much authenticity can be ascribed to the texts these commentaries used.²⁵ It is possible that the texts of the Twelve Tables took their final form only in this period.

That said, it is clear that so-called legal actions played an essential role in legal practice even in the middle Roman Republic at the time of Flavius. “Legal actions” were essential in the initiation of a trial. The actual trial began only when the object of dispute, whether a thing or an obligation, had been clearly defined and the definition accepted by both parties. For this, formulae had been developed that gradually became more and more finely differentiated (this is the stage of a trial that later took place in the presence of the praetor).²⁶ Gaius records a formula for such a proceeding in his legal

textbook from the second century C.E. for the case of a *legis actio in rem*, or “regarding a thing”:

If it was a real action, they vindicated before the court movable and living property, which could be carried or led into the court, in this way. The claimant would hold a rod; then he would take hold of the actual property, for instance a slave, and say: “I declare that this slave is mine by Quiritary right in accordance with my case. As I have spoken, see, I have imposed the claim,” and at the same time he laid the rod on the slave. His opponent likewise said and did the same. When each of them had made his claim the praetor would say: “Both of you, let go of the slave.” They then let go of him. The first claimant would then put a question to the other in these words: “I demand that you tell me the grounds of your claim.” The other replied: “I have exercised my right in imposing the claim.” The first claimant would then say: “Inasmuch as you have claimed wrongfully, I challenge you on oath for five hundred *asses*.” His opponent then said likewise: “And I you.” If the property was worth less than a thousand *asses*, the sworn penalty that they named would be for fifty.²⁷

This somewhat peculiar procedure came to an end when the sum in question was deposited with the pontiff. It is clear that both parties swore an oath, and that the oath was to be kept before the gods. For that purpose, the sums in the first step were made available, and the winner of the proceedings got his “bet” back.

It was the pontiffs who administrated these formulae at the end of the fourth century and who prepared them for legal proceedings. They were also the ones who determined the correct time for proceedings to be opened. Constructing legal proceedings around an oath, the *sacramentum*, did allow for a procedure based on argumentation and evidence. At the same time, however, such a framework was precarious from a religious perspective, because it had to be coordinated with other religious dates, especially holidays. This was the second task of the pontiff, namely determining the days on which legal proceedings of this kind could be opened. (For the period concerned, I follow Olga Tellegen in attributing *iurisdictio* to the pontiffs.²⁸)

Flavius intervened on both points, publishing the formulae, the *legis actiones*, as well as the *fasti*, the calendar consisting of a “list of days, or *fas*, appropriate for the opening of legal proceedings.” Cicero saw this act of

publication as the result of Flavius's having peeked at the documents of the pontiffs and memorized them clandestinely. This is a figment of his imagination, not of his sense of historical reality.

In the context of the waning fourth century, calendar reform would have had to be supported by a broad consensus among the nobility. The specifics of the decision-making process are not known to us. We know neither the pace nor the sequence in which particular elements were decided. It is highly probable that the point of departure was intercalation, the rules for the leap years and the number of days involved. Regulation of the market days was probably part of the same package, as one did not revolutionize the calendar every three years. With those changes, however, inscriptionation and publication of the calendar became unavoidable. If, however, there was some idea about a clear differentiation of social uses of time behind the separation of market days (*nundinae*) and month-structuring days, it may have been judged worthwhile to record the facts arising from such differentiation in any representation of the calendar. One cannot speak of strict necessity at any point in this reconstruction, and each point may have been colored by conflicts of detail. Even if reform of the priesthoods by the Ogulnian law was waiting to happen, it was still accompanied by bitter conflict and sharp words. The linking of an individual name with the publication of the *fasti* may well indicate that the varied reforms were indeed the cause of conflict, but that is no reason to see Flavius's action as either the criminal behavior of an individual or some autonomous act in the religious sphere by the pontiffs. Publication was part of the logic of calendar reform.

Even the connection to Appius Claudius, who later after he went blind was given the nickname Caecus, shows how rooted Flavius was in contemporary power structures. Claudius had been censor in 312 and thus supervised the composition of the citizenry just as much as that of the Senate. He was just as successful in his expansion of the Senate as in his reform of the voting units of Roman citizens, known as *tribus*, "tribes." In the Senate, he apparently aimed for a broad representation of the new nobility; as regards the citizens, he sought to insure the inclusion of the expanding population in the central legislative and electoral assemblies. In sacred matters, he transferred the cult of Hercules, which had previously been maintained by specific families at the so-called Ara Maxima, an altar in the Forum Boarium, to publicly owned slaves. Himself a priest, his resistance to the law on the expansion of the priesthoods was not motivated by a desire to defend pontifical or patrician special interests. His political orientation was directed rather toward the

curtailment of secondary centers of power.²⁹ Flavius's publication fits in here. Publication was, further, also to the personal liking of Claudius: he was the first to disseminate his political speeches and views in written form. Another hundred years would pass before that became truly fashionable.

Flavius's publication—I ascribe agency to him in accordance with the inclinations of annalistic historiography—was simply the last step in a more significant process, that of the inscripturation of the calendar. Regulations, which had so far been contingently motivated or derived from various other rules, were now summarized in the form of a table, one that excluded footnotes and included abbreviations. Essential information was to be recorded with a minimum of different short forms.

The name that was given to the calendar—*fasti*—also reveals something essential. Almost every day was categorized as either *Nefas* or *Fas*, and was marked with an N or an F. A day marked as N for *Nefas* was available neither for initiating legal proceedings nor for decision-making assemblies of the people. If on such a day a praetor accidentally started a trial with the formula *do, dico, addico* (I give, I say, I confirm) he was at fault, even though the trial itself was not invalidated. A similar lapse was ascribed to an official who led an assembly. The decision of the assembly was thus made vulnerable, even if it was not formally invalidated; interestingly, this scenario is not discussed in the antiquarian sources.

The days categorized as *N(efas)* also had subcategories. The most important of these were the N holidays, marked NP, which constituted proper *feriae*. The P stood for the word *piaculum*, or “atoning sacrifice,” which had to be offered if an official accidentally transgressed the prohibitions for that day. (A deliberate transgression could not be atoned for.³⁰) A few other days were designated EN. This stands for *Endoitio Exitio Nefas* and means that the day concerned was only *Nefas* in the evening and morning, but not for the main part of the day. Complicated and protracted cultic acts are the background here.³¹ The finer details of pontifical considerations about the co-occurrence of oaths in legal actions and public sacrifices are revealed here, as is the loss of information resulting from the condensing of all this information into a tabular format and the use of abbreviations. Other cases could not be grouped in categories. Formulae like *Quando rex comitiavit Fas*, “as soon as the *rex sacrorum* opens the Comitium (?), *Fas*,” and *Quando stercus delatum Fas*, “as soon as the manure has been removed, *Fas*,” suggest further ritual details that remain beyond our ken. In the latter case, at least, some connection to the cleaning of the temple of Vesta in the middle of June can be postulated.

Tricking Time

In some cases, the system of classification of days as *fas* and *nefas*, producing *fasti*, overshot the mark. This is especially clear in regard to the political consequences of the *fas* regulations. The conflict arose from the decision to classify the *nundinae*, the market days, as *nefas*.³² This made sense if one oriented one's thinking around the month-structuring days, which was, obviously, the point from which the reforms began. There was a sacrifice to Iuppiter, comparable to the Ides, and on both the Tubilustria and the Calends the function of the assembly belonged to the second day of the two-day period. These factors all point toward the classification of these days as *nefas* rather than *fas*. Such a restriction on business would have gone too far. For the population that came together from the surrounding area, a market day was also an extremely convenient time to perform legal business. On the other hand, designating these days as *fas* would also have allowed decision-making assemblies of the people to take place. At that point, the sanctity of the religious scruple animating and animated by the public sacrifices would have been all but vitiated. The risk was great. What was to be done?

The solution was found in the creation of a further differentiation. As with other activities, there were also days considered especially appropriate for assemblies, known as assembly days, or *dies comitiales*. These constituted just one, albeit a significant, portion of the *dies fasti*. By adopting the abbreviation C for the schedule of *fasti*—which designation is in fact attached to the majority of the days—the problem of the *nundinae* could be solved. They were categorized narrowly as *dies fasti*, since this allowed legal actions to be initiated but excluded the sitting of committees and decision-making assemblies of the people.

This new regulation is recorded in the *lex Hortensia*, the law of the people's tribune Hortensius, in 287. This law also regulated another matter. The resolutions of assemblies led by the tribunes, who had once been the revolutionary defenders of the rights of the plebs, were given equal status with the proper assemblies led by consuls. What is the connection between these reforms? The formal equivalence of the plebeian *contiones* and the actual *comitia* granted the former a higher degree of legitimacy and commitment than they had theretofore possessed. Resolutions by the plebs were thus binding for the entire population, including patricians.³³ At the same time, this equality made the *concilium plebis*, the assembly of the plebs, subject to the same regulations as the *comitia*: they could assemble only on

the days newly categorized in the calendar as *dies comitiales*, or assembly days, and no longer on the *nundines*, the market days. In this way the assemblies were deprived of spontaneity, and the plebeian assembly lost its wild-card nature, being now integrated into the political system and subjected to its notionally disinterested controls.³⁴

Reflection on the Hortensian law should also warn one not to estimate too highly the precision of calendrical regulations. The process of inscripturation—and in particular the form it took—had complex effects. What appears as a highly accurate and precise system of classifying time, it seems, was often hardly more than a pale reflection of the complicated cultic, legal, and political reality, given textual form through an inadequate number of abbreviations and symbols. At the same time, we must not forget that this systematization, and the knowledge systems to which it gave rise, developed its own effects and created new cultic, legal, and political realities.

Conclusion: Inscripturation as Rationalization

A few late sources and the actual text of a first-century Roman calendar suggest a fairly detailed image of the process that brought into being any number of the important political and juridical temporal structures valid in the late Republic. In the ordering of time, and thereby of virtually all aspects of communal political and legal life, Rome gave consideration to cult. The systems by which Rome did so, and the historical changes made to those systems, informed—and were informed by—the processes of systematization and inscripturation that I have identified and take to be indicative of rationalization. This process enabled new forms of differentiation and new interdependencies, but these should not be pigeonholed by the terms “secularization” and “sacralization.” Likewise, codification naturally changed the role of the specialists; it did not, however, necessarily diminish it. In the third century, a *pontifex maximus* publicly advertised legal counseling;³⁵ in the second, a law entrusted the pontiffs with new intricacies of the intercalation, as tradition has it.³⁶ It is the latter century that is addressed in the next chapter.

Chapter 8

Religion and Divination in the Second Century

This chapter investigates additional institutional changes that may betray rationalization or at least systematization in religious thought and practice. As we reach into the second century B.C.E., the increasing richness of the historical record will enable us to employ methods of analysis not possible up to this point. In particular, prosopographical data for the period will enable us to trace the contours of actual debates and to attempt to reconstruct the events that led to important institutional changes in the priesthoods. Divination, already touched upon in Chapter 4, will be of central interest. I claim that in the second-century processes of systematization of religious premises and processes of systematization of political authority and decision making strengthen each other in this field. To make this claim more plausible, I begin with a literary genre to which I have not thus far devoted systematic attention, historiography.

Rationalizing Religion in Second-Century Literature

Historiographic and legal literature displays a special, though limited, interest in religious discourse. Although only fragments of these literatures remain, what we have suggests their steady production over time. This in turn means that in reading those fragments, we have access—or can at least come close to access—to a process, rather than to isolated moments. Socially, the authors come primarily from among the senators and nobles. Only later do other authors from other social classes appear—a shift significant for Roman processes of rationalization. In addition, it is only at the end of the second century that the differentiation of historiographic texts, which draw extensively on

antiquarian material and methods for the reconstruction of early history, from antiquarian texts becomes complete.¹

This investigation begins with Latin historiography and its earliest known example, Cato's *Origines*. At first, the search for examples of rationality returns negative results. Two passages can serve to illustrate the types of rational argumentation on display here. In the first book of the *Origines* Cato places the following oath in the mouth of the Latins, who contrast themselves with Mezentius, who ordered his men to sacrifice to himself (fr. 12 Peter = 1.12 Walter):

Iuppiter, si tibi magis cordi est nos ea tibi dare potius quam Mezentio, uti nos uictores facias.

Iuppiter, if you prefer us to sacrifice this to you rather than to Mezentius, make us victorious!

The argumentation here invented by Cato displays no recognizable interest in marking historical distance. It follows a close “internal” logic indexed to an escalating value of gifts and shows no regard for such ethical or theological considerations as one finds in the first century. Elsewhere, when attempts are made at the natural-philosophical explanation of omens, in a manner foreign to the period that Cato purports to describe, those attempts remain imprecise and are advanced without any claim to be the sole explanation (fr. 77 Peter = 4.1 Walter):

Non lubet scribere, quod in tabula apud pontificem maximum est, quotiens annona cara, quotiens lunae aut solis lumine caligo aut quid obstiterit.

I do not like to write what is written on the tablet in the presence of [or “at the house of”] the supreme pontiff, how often corn was expensive, how often a mist or something else obscured the moon or the sun.

The series of negative findings with respect to rational argumentation in second-century historiography can be extended. The types of rational argumentation visible in Accius are completely lacking in Cassius Hemina (active until at least 145),² as well as Calpurnius Piso (consul. 133; censor 120)³ and Sempronius Asellio (military tribune 133; writing until at least 90). Even the

few remaining fragments from Gellius's enormous work (*Annales*) contain nothing comparable.⁴

Positive findings of a limited kind arise only with an examination of the *Annales* of Gaius Fannius (consul 122), which also survive in a few fragments. The first book contains a statement on individually experienced change formulated less as a piece of advice about the unpredictability of life and more as an epistemological problem, an effect achieved through the use of a generalizing first-person plural form of "learn" (*didicimus*) (*Hist.* 1 Peter/Chass. = 1 Walter):

Cum in uita agenda didicimus, multa, quae inpraesentiarum bona uidentur, post mala inuenta et multa amplius alius modi atque ante uisa essent.

When we have gathered experience in life, many things that on first glance seem to be a good are later found to be something bad, and much altered compared to what they had seemed before.

Argumentation in support of a judgment or general standards developed beyond a specific situation is apparent in the critical evaluation of the suicide of Publius Rupilius (*hist.* 6 Peter/Chass. = 6 Walter):

Aegre tulisse P. Rupilium fratris repulsam consulatus scriptum apud Fannium est. sed tamen transisse uidetur modum, quippe qui ob eam causam a uita recesserit; moderatius igitur ferre debuit.

In Fannius we read that P. Rupilius bore poorly the defeat of his brother in the election for the consulship. Yet, in departing from life for that reason, he seems to have transgressed the acceptable; therefore he should have borne that more moderately.

In my view, the findings with respect to the fragments of C. Sempronius Tuditanus (consul 129) are even clearer,⁵ although the fragments are very few, and their attribution not always unproblematic. In two fragments Tuditanus consistently rationalizes controversial historical events according to contemporary constitutional practice (*hist.* 3 Peter = 7 Chass. = 7 Walter):

libros eius (scil. Numae) repertos P. Cornelio L. f. Cethego, M. Baebio Q. f. Tamphilo coss.—eosque combustos a Q. Petilio praetore, quia philosophiae

scripta essent. hoc idem tradit Piso Censorius primo commentariorum, sed libros septem iuris pontificii totidemque Pythagoricos fuisse, Tuditanus quatuordecim Numae decretorum fuisse.

His (scil. Numa's) books were found under the consuls P. Cornelius L.f. Cethegus and M. Babius Q. f. Tamphilus, and they were burned by the praetor Q. Petilius, because they were books of philosophy. Piso Censorius reports the same in the first book of his *Commentaries*, but he reports that there were seven books of pontifical law and the same number of Pythagorean philosophy, while Tuditanus maintains that there had been fourteen books of decisions of Numa.

This is a classic case of classical pseudepigraphy.⁶ There can be no doubt that the interpretation advanced by Tuditanus is wrong. It is, however, revealing of his own habit of mind. The same applies to a historically improbable law on issues related to the calendar that Tuditanus takes to be a popular law from the middle of the fifth century (fr. 7 Peter [not in Chass.] = iur. 1 Seckel/Kübler):

*Tuditanus refert libro tertio magistratuum, decem uiros, qui decem tabulis duas addiderunt, de intercalando populum rogasse.*⁷

Tuditanus reports in his third book on magistracies that the *Decemviri*, who added two tables to the existing ten, proposed a law on intercalation to the people.

A fragment that reached Gellius⁸ through an augural author of the first century sets out a complete—albeit difficult—syllogism on the question of the constitutional relationship between the praetor and the consul⁹:

Praetor etsi conlega consulis est, neque praetorem neque consulem iure rogare potest, ut quidem nos a superioribus accepimus aut ante haec tempora servatum est et ut in commentario tertio decimo C. Tuditani patet, quia imperium minus praetor, maius habet consul, et a minore imperio maius aut maiore conlega rogari iure non potest.

Despite the fact that the praetor is a colleague of the consul, he is allowed to call neither a praetor nor a consul into court, as we have learned from our ancestors and as it has been maintained in the past, and as is written

in the thirteenth book of the *Commentaries* of C. Tuditanus. For the praetor has lesser *imperium*, the consul greater, and an official of greater *imperium* cannot be called into court by one of lesser *imperium*, nor can a man of greater *imperium* call his colleague into court.

Dreams and Omens in Coelius Antipater and Beyond

Turning now to Coelius Antipater, whose history belongs to the last quarter of the second century—and, indeed, early in that period—we do not find his work replete with passages instructive for a history of argumentation. Instead, several fragments show an interest in divination closely akin to that displayed by Accius, whose work was analyzed in Chapter 4, and who was nearly the same age as Coelius Antipater. The defense of divination in the first book of Cicero's *De divinatione* draws upon three long dreams narrated in Coelius's history, which was probably a treasure trove of accounts of dreams.¹⁰ What is striking about these dreams is that interpretations of what is seen in the dream are supplied within the dream by the divine apparitions that organize them. These interpretations ensure understanding of the divine message and have consequences for the dreamer's actions. Disobedience is discouraged in two of the dreams by sanctions on health. Thus the dream itself is described as ensuring the correct reaction to its message.

The forced inclusion of dreams in a world formed by the interplay of institutions (fr. 49 Peter/57 Chass.) and clear reason (fr. 34, Peter/41 Chass. *homine acuto*)¹¹ creates a dynamic by which the dream and dream interpretation are legitimated by virtue of their correspondence with narrative. A similar dynamic is observable in what Cicero represents as Coelius's version of Gaius Flaminius's neglect of the omen that led to the catastrophic Roman defeat at Lake Trasimene.¹² What is special in this account is the connection drawn between the omen, the defeat, and an earthquake that occurred simultaneously with the defeat and caused considerable damage in large areas of Italy. This juxtaposition achieves continuity in *episteme* between the varied types of divination practiced in the narrative, as well as a naturalization of the event that is at once message and *explanandum*, namely the defeat. My hypothesis is that forms of argumentation and critique that arose in reaction to contemporary astrology,¹³ which was widespread in Rome but became generally popular only in the imperial period, are here applied to more socially prominent forms of divination.¹⁴ With Coelius as with Accius, it is a

matter of things reversing their natural course, in this case not the movement of the sun but the direction in which water flows:

Magnum illud etiam quod addidit Coelius, eo tempore ipso, cum hoc calamitosum proelium fieret, tantos terrae motus in Liguribus, Gallia compluribusque insulis totaque in Italia factos esse, ut multa oppida contruerint, multis locis labes factae sint terraeque desederint fluminaque in contrarias partes fluxerint atque in amnes mare influxerit.

Even more remarkable is the fact added by Coelius that at the same time as the fatal battle took place, such earthquakes occurred in Liguria, Gaul, several islands, and in the whole of Italy, that many towns crumbled, in many places buildings collapsed, earth moved downward and rivers flowed in the opposite direction and the sea flowed into streams.

Incidentally, Coelius was the teacher (and friend) of the augur and great orator L. Licinius Crassus, born about 140 and member of the college of augurs from the end of the second century.¹⁵

Although modes of formal rational argumentation were probably developed very early in a legal context, the surviving texts do not reflect much of this. This is probably due primarily to the conditions of their production, which exerted greater pressure toward the inscription of norms as opposed to argumentation.

Besides Tuditanus, whom we have just discussed, we should also take into account the pontiff—later *pontifex maximus*—P. Mucius Scaevola. He was slightly older than Tuditanus; his consulship was four years earlier, 133. His fame derives principally from the fact that the editing—we would say fabrication—of the year-by-year chronicle of the *pontifices maximi* is attributed to him.¹⁶ This is the discussion explicitly related by Cicero:¹⁷

Placuit P. Scaeuolae et Ti. Coruncanio, pontificibus maximis, itemque ceteris eos, qui tantundem caperent, quantum omnes heredes, sacris alligari. habeo ius pontificium. quid huc accessit ex iure civili? partitionis caput scriptum caute, ut centum nummi deducerentur: inuenta est ratio, cur pecunia sacrorum molestia liberaretur. quid si hoc, qui testamentum faciebat, cauere noluisset? admonet iuris consultus hic quidem ipse Mucius, pontifex idem, ut minus capiat, quam omnibus heredibus relinquatur: supra dicebant, quicquid cepisset, adstringi: rursus sacris liberantur. hoc uero nihil ad

pontificium ius, et e medio est iure ciuili, ut per aes et libram heredem testamenti soluant et eodem loco res sit, quasi ea pecunia legata non esset, si is, cui legatum est, stipulatus est id ipsum, quod legatum est, ut ea pecunia ex stipulatione debeatur, sitque ea non . . .

Publius Scaevola, Tiberius Coruncanius, and other supreme pontiffs have decided that those who received as much as all the heirs together were bound by the rites. There we have the rule of the pontiffs. What addition has been made to it out of the civil law? The directions for the division of the estate are cleverly written, to the effect that a hundred *nummi* should be deducted; thus a method was found by which the property might be freed from the burden of the rites. What if the author of the will had not been willing to guard against such an act? The legal consultant, this very Mucius himself, who is also a pontiff, advises the legatee to accept less than is left to all the heirs. Previously the pontiffs had said that he was bound, whatever he had accepted; but now they free him from the rites. This other device of theirs, however, is taken directly from the civil law, and has nothing to do with the pontiffs' rules—the scheme, I mean, by which the heir under the will is freed from his obligation to pay the legacy by a sale. This makes the situation the same as if the money had not been left as a legacy at all, provided only that the legatee makes a formal contract in regard to the legacy, so that the money is owed to him under the contract, and not. . . .¹⁸

On the surface, the argument attributed to Scaevola by Cicero concerns the problem of the connection between inheritance and the passing down of religious duties (*sacra*). Those who receive a share of the estate equal to that of all other heirs combined have to share the religious duties resulting from the inheritance, too. Obviously, there is a certain discomfort that a minor reduction in the share allows that person to get rid of his sacral obligations. This seems to defy the testatory intentions—the very reason for a testament's validity. The discrepancy is solved by a shift of conceptual level. The problem is seen as a problem of boundaries between the *ius pontificium* and the *ius civile*. One generation later, with Q. Mucius Scaevola, who was also *pontifex maximus*, in his case from about 89 to 82, this kind of argument has broad currency. By Sullan times, the historian Licinius Macer consciously rationalizes religion on a large scale.¹⁹

Laws and Lawmaking

After a period of high density of religious reforms during the Second Punic War and the decade that followed—one might name by way of example the creation of the new priesthood of the *Tresviri epulonum* in 196 and the *lex Acilia* in 191²⁰—and an apparent lull in the second quarter of the second century, there followed a full half-century of dramatic political initiatives, laws, experiments, and court decisions of relevance to religion. This series continues up to the *lex Domitia* at the end of the century, that is, the law of 104 that opened nomination to the priestly colleges to all men at the pinnacle of the aristocracy. This epoch is characterized not only by the existence of religious conflict and the further politicization of religion—that was not really anything new—but also by a significant increase in interest in the documentation and codification of both old and new solutions to problems in the religious sphere, a form of the inscription of religion.²¹

Three laws surviving from this period directly concern religious topics. At the beginning, in 145, we find the rejected initiative of the *lex Licinia de sacerdotiis*.²² Not enough is known of its contents to comment in detail, but the issue it addressed was the involvement of the people, as the sovereign body in the state as a whole, in the co-optation procedure for significant priestly colleges. The precise procedural change proposed in the law cannot, alas, be recovered from Cicero's description, who regarded its essential aim as ultimately fulfilled by the *lex Domitia* of 104: *cooptatio . . . collegiorum ad populi beneficium transferebatur*, "co-optation into the colleges of the priests was transferred to the bailiwick of the populace."²³

It is not possible to determine whether this proposal was motivated by specific upcoming nominations: the membership of the colleges in this period is too poorly attested to serve as the basis for any hypothesis. The only case that may be discerned with any degree of clarity concerns the college of augurs, into which several individuals appear to have been co-opted at a very young age. One result was longer-than-average terms of office for them, which would have reduced openings for priestly offices and could thus have been perceived as a threat. The person who proposed the law, C. Licinius Crassus, was in any case part of an older Licinian and plebeian-populist tradition of liberalizing the priesthood. Hence, at the end of the Third Punic War, religious legitimation seems to be just as much on the agenda of the aristocracy as coping with popular dissatisfaction. This is most clearly seen in the attempt by the fetials in 136 to hand over Hostilius Mancinus to the

Numantines: Mancinus had made a treaty to Rome's disadvantage, and his surrender to the Numantines would have voided the treaty. Needless to say, the Numantines rejected this maneuver.²⁴ In general, priesthood moves into the center of political interest at this time and stays there until the end of the Republic. This is manifested above all in the behavior of the supreme pontiffs in the 140s and 130s.

Returning to the failed *lex Licinia* of 145, the significance that Cicero, our primary source, assigns to the speech by Laelius, who rejected the law, shows the volatility of this proposal.²⁵ A fragment of the speech of opposition by Laelius is preserved by Nonius.²⁶ This reveals both its wide distribution and the religious tone of Laelius's debating strategy: he appears to have argued that the proposal risked disturbing the *pax deorum* by tampering with details in the ritual apparatus.²⁷

Attempts to date the *lex Domitia de sacerdotiis* oscillate between 104 and 103. T. Robert Broughton's arguments for 104 strike me as cogent.²⁸ Despite the fact that the text of the law itself has not survived, what is certain is that it concerned the inclusion of an act of election by seventeen of the thirty-five voting tribes in the procedure for co-opting priests, augurs, and possibly also the *decemviri sacris faciundis*.²⁹ Beyond this, basic aspects of the procedure for nomination were probably also established in this law.

In the *Rhetorica ad Herennium* there is a reference to a law that instructs an augur to nominate a successor to a vacant position in an assembly (1.20). Even though this text should most probably be dated to the 50s,³⁰ the regulation at issue was likely enacted as part of the *lex Domitia*. It seems to me, however, doubtful that any chronological schema was enacted tying the elections to priesthoods to other magisterial elections as part of this (or any) legal regulation.³¹

John North has suggested that a regulation recorded by Cassius Dio for the year 57 that forbade the membership of more than one person from the same *gens* in a given priesthood was a further element of this law. He believes it to have been suspended by Sulla and later put into effect again by a law of Labienus.³² This hypothesis works with such brief periods of time that it cannot be refuted directly from the sources. What is more, the accumulation of violations between 81 and 63 is indeed suggestive, while logically the connection of a traditional convention with a change in the electoral body seems plausible.³³

In view of the failure of the law proposed by Licinius in 145, the question arises as to the context of the *lex Domitia* of 104, which did finally succeed.

The sources emphasize the personal aspect of the initiative: Cn. Domitius Ahenobarbus, who proposed the law, was enraged that he had not been co-opted into a priestly college on the death of his father, to be his successor as he was his namesake. (The college in question is almost undoubtedly the pontifical, but the evidence does not permit certainty on this point.³⁴) This disrupted a family tradition that had begun with the co-optation of the grandfather in 172. That occurred two years before the latter's praetorship,³⁵ which suggests that his election was in fact due to the achievements of his father, also called Cn. Domitius Ahenobarbus. That man had been the first consul from a plebeian branch of the family—in 192—and in 196, the year of the *lex Licinia* on *epulones*, he had become a plebeian aedile. In 191 and 190 he served in the army of Scipio Africanus. It is probable that the father of the tribune of the *plebs* succeeded the grandfather to the priesthood.

In this reconstruction I follow the testimony of Suetonius (*Nero* 2.1), who is the sole witness for the pontificate of the father.³⁶ Asconius's account contradicts this, inasmuch as he makes the augur Scaurus responsible for the rejection of the son, which can only mean a rejection in the college of augurs.³⁷ This does not necessarily contradict the pontificate of the father, since he could have agitated for the nomination of his son to a priesthood during his own lifetime. In this case the pontifical college would not have come into question.³⁸

Domitius held M. Aemilius Scaurus responsible for the failure of his co-optation. Scaurus was a determined *optimas* who had been in the college of augurs since about 123 and who, after his consulship in 115 (during which he sponsored an important sumptuary law), became *princeps senatus*, and then censor in 109. According to Asconius, a suit brought against him by Domitius for damaging the *sacra* of the Roman people was, just barely, lost by Domitius.³⁹

In fact, to use terminology that is consolidated somewhat later,⁴⁰ the polarization between *optimates* and *populares* implied here, which had arisen in the Gracchan period, plays a decisive role in making these events understandable. The events show once again that the fault lines in the conflict ran through, but within, the aristocracy: the conflict consisted of a fight more about the methods of political activity and less about actual content.⁴¹ Within the college of augurs, Scaurus's position as an *optimas* was probably backed by the Metelli, Sulpicii, and Servilii. In the pontifical college, the *pontifex maximus* L. Caecilius Metellus Delmaticus would have been in a parallel position, as his family. His daughter had, in her first marriage, been the wife

of Scaurus, and, after his death (89/88), married Sulla.⁴² Q. Servilius Caepio probably also backed such lines of reasoning, although his pontificate is controversial.⁴³ Consul in 106 and responsible for the catastrophic defeat at Arausio in 105, he was put on trial in 104 for purportedly embezzling the *aurum Tolosanum* and, after a new trial in 103, executed.⁴⁴ It is harder to determine the position of Q. Mucius Scaevola, the son of the famous *pontifex maximus* P. Mucius Scaevola. He may have been co-opted in 115 in direct succession to his father.⁴⁵ Although his father was decidedly on the side of the Gracchans (as consul in 133 he refused to take steps against Ti. Gracchus), the position of the son cannot be determined on individual issues. Only in the 90s do we see him backing recognizably “optimat” positions. Still, his repeated collegiality in, which is to say, sharing of, offices with his coeval and son-in-law L. Licinius Crassus, the famous orator who was firmly on the optimat side from 106,⁴⁶ would suggest that Scaevola also stood against Domitius at the decisive moment. Another *pontifex*, Servius Sulpicius Galba, was a consul colleague of Scaurus in 108. No other *pontifices* can be named for this period. It is difficult to categorize C. Iulius Caesar Strabo Vopiscus politically, if he was already *pontifex* at this time; his pontificate is certain only for the period commencing in 99.⁴⁷

This overview makes it clear that co-optation of the *populares*-oriented Domitius was highly improbable as long as direct succession to his father was refused. On the other hand, Domitius clearly recognized the significance of the college, especially the supreme pontificate, and its unambiguous politicization, the beginnings of which could be traced back far into the third century. (Of course it had never been completely apolitical.) This is abundantly manifest in the abrupt change of course in the high priesthood over the half century before Domitius. After the two Publii Cornelii Scipiones Nasicae, Corculum (150–141) and Serapio (141–132),⁴⁸ the latter of whom was the opponent of Tiberius Gracchus, there follows (132–130) the Gracchus follower P. Licinius Crassus Dives Mucianus, who brought together the families of the Licinii Crassi and the Mucii Scaevolae. Then came P. Mucius Scaevola himself, from 130 to about 115, and then once again the pronounced *optimas* Caecilius Metellus. Thus the timing of the proposal was good, but the window of opportunity in which it had to be passed was narrow.

In the last decade of the second century, the opportunity for popular initiatives of such far-reaching consequence as the introduction of a sort of popular vote for the priesthoods had finally come. These prior events had included the military catastrophe at Arausio in 105, for which an optimat

general was held accountable, and the election in absentia of C. Marius to a second consulate in the same year for 104—Marius, after long equivocation, being finally in a position of clear opposition to the Caecilii Metelli. In short, the legitimacy of noble and optimate leadership had suffered a blow, which opened the door to a broad range of assertions of popularis and loosely plebeian power. The reelection of Marius without the prescribed intermediate period between offices signaled this readiness. This is the only explanation for the success of the law, and for its successful application to the person who had proposed it: he promptly became *pontifex*, and, in the following year, after his predecessor and political opponent had died, he was elected *pontifex maximus*. Three years later, in 100, Marius and Saturninus were consuls. But this climax to a turbulent period of intense conflict and change further disturbed the political climate, and in the process made it less probable that Domitius would achieve success comparable to that of Marius.⁴⁹

It should also be noted that the law remained in force until the dictatorship of Sulla, who had difficulties finding enough honorary priesthoods for his supporters. Even the nomination of candidates in and by the college and the performance of co-optation, which were necessary according to the new law, show the ability of the aristocracy to find solutions to conflicts and, what is more, repeatedly to reach lasting consensus on further institutional developments, even if the solution reached henceforth brought a notional third party into play, in the form of the popular assembly.

The degree to which this could be contentious in particular cases can be seen in the case of the Vestal Virgins Licinia and Marcia, who had previously, in December 114, been cleared of the accusation of *incestus* by the pontiffs and the *pontifex maximus*. On the initiative of the tribune of the people Sextus Peducaeus, a court, possibly staffed by equestrian *iudices* and presided over by L. Cassius Longinus Ravilla, a consul of 127,⁵⁰ was called to session in 113, and the case was reopened, resulting in a condemnation.⁵¹ Unfortunately, the sources give no further detail. And yet the involvement of one of the Vestals, Licinia C. f., in another lawsuit demonstrates the degree to which religion was made an object of public and legal reasoning. In 123 she had dedicated a small cult site to Bona Dea. This dedication was declared invalid owing to the absence of a popular resolution.⁵²

The ability to develop a system of regulations that functioned in spite of conflict precisely because it ensured consensus through the interplay of diverse institutions manifests itself especially in the *lex* or *leges Aeliae et Fufiae*. It is not possible to date this law precisely. Referring to this legislation in his

invective against Piso (10), Cicero speaks of a hundred-year-old law, which would put us before the middle of the second century. This rough description of the law's age could also accord with a dating some time after the *rogatio Licinia*, in the 140s or 130s, which seems more probable on the basis of the broader developments analyzed here. The difficulty in reconstructing the content of these laws, on which intensive research has not yet reached a consensus, arises from the fact that our information about them derives solely from polemical attacks on the *lex Clodia* of 58. That law was intended to suspend important parts of the *leges Aeliae et Fufiae* and thus to put an end to augural techniques of obstruction. However, because even the effects of the Clodian counterproposal are not clearly discernible (did the law take effect or was it ignored?),⁵³ a thoroughgoing reconstruction of the earlier law is not possible.

It will have to suffice for an understanding of the developments of the second century to note that the law enacted a complex system of regulations that placed objections to particular public actions raised by augurs or magistrates (by advancing claims based on augural "discipline") in a resilient relationship with the capacity for action of elected magistrates. One effect of this action, as Mary Beard, John North, and Simon Price correctly observe,⁵⁴ was a codification of augural teachings through the medium of public law.

Insofar as they touched on sacred topics, Roman laws, even into late antiquity, are characterized by a peculiar restraint and the art of indirect influence. The *lex Domitia* neither did away with co-optation by the college nor introduced selection wholly by popular vote, thanks to a participatory quota of less than a majority. The desire to find functional and politically acceptable solutions in this area is particularly noticeable in a period characterized by intensification of conflict in the political arena.

Priesthoods in the Late Second Century

The high degree of interest in divination across a number of arenas of intellectual endeavor, whose contours are at least partially traced in the history of the *leges Aeliae et Fufiae*, leads us to the college of augurs. The history of that college offers a window onto the personal networks and intellectual formation of significant players in religion, politics, and religious discourse in the late second century. It may stand in exemplary relation to the history of the

other colleges, whose members I have traced elsewhere. For the years 145 to 105 the nine-man college can be reconstructed as follows:⁵⁵

145: *P. Cornelius P.f. P.n. Scipio Africanus Aemilianus*; *Q. Caecilius Q.f. L.n. Metellus Macedonicus*; *M. Aemilius M.f. M.n. Lepidus Porcina*; *Ser. Sulpicius Ser.f. P.n. Galba*; *C. Laelius C.f. C.n.*; *Ap. Claudius C.f. Ap.n. Pulcher*; *Ti. Sempronius Ti.f. P.n. Gracchus*⁵⁶

135: *P. Cornelius P.f. P.n. Scipio Africanus Aemilianus*; *Q. Caecilius Q.f. L.n. Metellus Macedonicus*; *M. Aemilius M.f. M.n. Lepidus Porcina*; *Ser. Sulpicius Ser.f. P.n. Galba*; *C. Laelius C.f. C.n.*; *Ap. Claudius C.f. Ap.n. Pulcher*; *Ti. Sempronius Ti.f. P.n. Gracchus*; *D. Iunius M.f. M.n. Brutus Callaicus*; *Q. Mucius Q.f. Q.n. Scaevola*

125: *Q. Caecilius Q.f. L.n. Metellus Macedonicus*; *M. Aemilius M.f. M.n. Lepidus Porcina*; *D. Iunius M.f. M.n. Brutus Callaicus*; *Q. Mucius Q.f. Q.n. Scaevola*; *C. Fannius M.f.*

115: *Q. Caecilius Q.f. L.n. Metellus Macedonicus* (deceased, followed by) *Q. Caecilius L.f. Q.n. Metellus Numidicus?*; *Q. Mucius Q.f. Q.n. Scaevola*; *C. Fannius M.f.*; *M. Aemilius M.f. L.n. Scaurus*; *C. Servilius M.f. M.n. Vatia*; *C. Sulpicius Ser.f. Ser.n. Galba*

105: *Q. Mucius Q.f. Q.n. Scaevola*; *M. Aemilius M.f. L.n. Scaurus*; *C. Servilius M.f. M.n. Vatia*; *Q. Caecilius L.f. Q.n. Metellus Numidicus*; *C. Sulpicius Ser.f. Ser.n. Galba*; *L. Licinius L.f. C.n. Crassus*

P. Cornelius Scipio Africanus Aemilianus was a leading figure in Roman politics and intellectual life. This is the same individual who is described in much modern research as the head of a circle of intellectuals in politics.⁵⁷ He was probably responsible for the co-opting of the philosophically educated C. Laelius,⁵⁸ who showed his gratitude in a speech opposing the law on priestly colleges (*De collegiis*) proposed by C. Licinius Crassus, and who lost the elections for consul in 141. Quintus Mucius Scaevola and the historiographer and orator C. Fannius, consul in 122, were sons-in-law of Laelius who were both co-opted into the college, the latter in direct succession to Tiberius Gracchus in 133. Roughly from the early 130s, D. Iunius Brutus Callaicus was

also an augur. A military victory of his consulship in 138 was possibly celebrated by Accius's *Brutus*.⁵⁹ He himself was known as an orator and for his Greek education.⁶⁰ Scaevola also had a cousin in the college, Q. Mucius Scaevola, who oversaw the publication of the *annales maximi*.

We have no evidence of priestly offices having been held by C. Sempronius Tuditanus or L. Coelius Antipater, although they are possible at least for the former, who was consul in 129. This again shows clearly that the college of augurs did not act as an institution, but rather that their regular meetings offered a framework for intensifying and coloring a network of give-and-take.⁶¹ The use of co-optation as a procedure for selecting new members ensured that this framework could be concentrated among certain persons, a concentration typical of complex social networks among the aristocracy, and also visible elsewhere. However, this undoubtedly contributed to the fact that, as Cicero never tires of repeating, the augurs had become institutionally the most important college by the end of the Republic. For us, they are important as a window into the personal network active in the processes of rationalization.

Chapter 9

Religion in the *Lex Ursonensis*

Compared to the texts analyzed in the previous chapters, the late republican *lex Ursonensis* professes a type of legal reasoning that, in the first century B.C.E., is new to Roman religious thought.¹ Before we continue to consider earlier and less pronounced systematic forms of describing religion in the chapters that follow, the *lex Ursonensis* offers us the opportunity to examine the development of juridical thinking, one of the most important legacies of Roman culture to later ages. This chapter claims that by the end of the period under consideration another city's religion could be described in a way that employs Roman semantics and institutions in a rather abstract manner. No new systematic terms are developed, but existing terminology and institutional patterns are aligned to a basic idea about the place of religion in society.

Rome—that is, the Roman Senate and Roman magistrates—had had to deal with religion before. By the second century, as we have seen, the role of religious agents included more explicit legislation on religion, from the *senatusconsultum de Bacchanalibus* (186), with its reflection on gender roles,² to the *leges Aeliae et Fufiae* of the late second century and other rulings on augury.³ All these regulations dealt with religion as part of the texture of urban power and politics. Only occasionally, in the repression of the Bacchanalia and Bacchants, for example, or in procuring prodigies external to Rome,⁴ did Roman politicians have to think about religion outside of Rome. Occasional interventions into foreign religious conflicts, mostly about legitimacy and resources, did not amount to a coherent body of regulations but instead seem to have followed the rationale of preserving or establishing internal structures in the conquered territories that were compatible with Roman aristocratic practices of policy making.⁵

An *argumentum e silentio* is weak, but frequently necessary. As far as the *lex Ursonensis* is concerned, one should not seek models that were much

older. To be sure, the text is a conglomerate, a composition from norms that might be older.⁶ Yet it is not very probable that any encompassing legal composition had been prepared more than one or two decades before, if at all. Cicero's *De legibus*, an archaizing collection of laws, dates from the 50s; the systematic treatises concerning religion that are prominent in Varro—those by Aelius Stilo, for example—are not much older. The surviving parts of the *lex Iulia municipalis*, if we identify the second part of the *Tabula Heracleensis* (lines 83–163) with this Caesarean law of 45,⁷ do not allow us to posit a direct relationship to the *lex Ursonensis*. We do not have any indication that religion was a topic of the *lex Iulia municipalis*. The heterogeneous origin of this collection of norms displayed in the southern Italian city of Heraclea reveals the lack of a comprehensive law: it is composed of norms addressed to the city of Rome, as well as a law for Italian colonies and *municipia*.⁸ The incoherence of the charter of Urso suggests that it had only recently been composed, perhaps even at the time it became law. And nothing comparable was to follow. When, in late Flavian times, that is, at the end of the first century C.E., more than a century later, the law was republished on bronze tablets at the same time as the charters of Salpensa and Malaca,⁹ the probable reason was that it had not been superseded by anything and was a prestigious model itself.

Discovered from 1870–71 onward at the Spanish locality of Osuna, the surviving fragments contain about one-third of all of the regulations for the Caesarean colony of Iulia Genetiva Ursonensis, founded in 44 B.C.E. on the initiative of an unknown person who had won the support of the dictator Caesar for his plan to accord this prestigious status (and Caesar's name) to the reestablishment of the location called Urso.¹⁰ The surviving chapters (13–20,¹¹ 61–82, 91–109, and 123–34) do not have any explicit overall structure. The same holds true for the fragments of the Flavian municipal laws. At the same time, ordering principles are recognizable in the *lex Ursonensis* and reveal significant differences from the later texts. Thus it is necessary to deal with the composition of the law before delving into the details it offers regarding religious regulation.

The Concept of Religion

In the surviving fragments, the material concerning “religion” in our sense is contained in chapters 64–72 and 125–28. Of course, these chapters do not

exhaust our notion of religion and what we know about ancient religious practices, but there is no reason to suppose that the charter contained further chapters directly addressing religious matters. As far as I know, there are no regulations on religious matters in any other colonial or municipal norm that are not included in the chapters named.

Chapters 64–72 concern regulations for the local financing of cult (64–65), regulations for pontiffs and augurs (66–68), the procedure for payments for ritual ingredients (69), the organization and financing of games (70–71), and the administration of money given to temples (72). The coherence of these chapters is achieved by the repetition of the word *sacra*: *quae sacra fieri publice placeat et quos ea sacra facere placeat . . . eaque sacra* (64); *at ea sacra, quae in colon(ia) aliove quo loco colonorum nomine fiat* (twice in 65); *quae ad sacra resq(ue) diuinas opus erunt* and *[ad] ea sacra, quae in colon(ia) aliove quo loco publice fiant* (69, similarly in 70); and finally *aedis sacras* and *eis sacris superfuerit, quae sacra* (72). Three chapters on priesthoods are inserted and integrated into the frame of regulations on the financing of cult. These inserted chapters do not contain the term *sacra* or the general notion of *sacerdotes*. The regulations are restricted to discussion of *pontifices* and *augures*. The composition clearly indicates the lack of a term for or an interest in a unified concept of religion. It is the term *sacra*, “public rituals,” that signifies the most general concept, and that closest to our concept of religion.

What are the limits of this concept, and why are the chapters on *sacra* placed within the context of the *lex coloniae*? The chapters are part of a longer sequence formulating norms for the magistrates of the colony: *Huius quicumque erunt* or *Huius, qui primi* opens chapters 62–64 and is echoed in the chapters that follow. Conversely, chapter 73 opens with a series of norms formulating prohibitions or positive regulations addressed to every possible agent. *Ne quis* or *qui* open the paragraphs in this chapter. The first two prohibitions deal with the inhumation and burning of corpses. Do they form part of the religious regulations?¹²

There is no semantic bond or relation to the previous chapters. The terms *religio* and *loca religiosa*, applied to burial sites and private obligations to the cult of the dead, do not appear. On the other hand, a train of thought leading from the publicly financed cults through the money given by private initiative in chapter 72 to the realm of private cult implied by burial could be imagined. Such a line of reasoning is exemplified in Cicero’s slightly earlier text, *De legibus*. The legislation on religion in book 2 finishes with the affirmation of private cults and a few thoughts on the *di manes*:

*Sacra priuata perpetua manento. deorum manium iura sancta sunt. nos leto datos diuos habento. sumptum in ollos luctumque minuunto.*¹³

Private cults should remain permanent. The rights of the “good gods” (the divine ancestors) should be inviolable. Good humans who have died should be regarded as gods. The expenditure for them and the mourning should be reduced.

The discussion, among Atticus, Marcus Tullius Cicero, and his brother Quintus, has a lacuna at the decisive transition (*Leg.* 2.53). Yet it clearly affirms the connection: *Iam tanta religio est sepulcrorum, ut extra sacra et gentem inferri fas negent esse* (2.55). Here, the semantic bonds are clear. It has to be noted, however, that in the fictitious legal text proper, burial practices are not dealt with.

This leads us back to the *lex Ursonensis*. We cannot exclude an association between *sacra* and illegal burial in the mind of the author, but the text painstakingly avoids any connection. In formulation and content, the chapters on illegal burial are part of the following section on illegal building and the maintenance of public space, the type of regulations so prominent in the *Tabula Heracleensis*. As in Cicero, *sacra privata*, private religion, is not regarded as an object of public legislation. And yet a religious dimension of the problem of illegal burial cannot be totally dismissed by the author. Instead of a sanction in the form of a fine or the threat of prosecution, the religious framing of the countermeasures is stressed: *Si adversus ea mortuus inlatus positusue erit, expianto uti oportebit* (ch. 73).

It is more difficult to define the relationship to the preceding chapters, as the surviving portion of the text starts only in the middle of chapter 61, a chapter on the juridical procedure of *manus iniectio*, stressing the jurisdiction of the *IIviri* in the end.¹⁴ Chapters 62 and 63 describe the attendants (*apparitores*) of the higher magistrates, the *Duoviri* and the *aediles*, and their salary. The list includes *haruspices* and *tibicines*, specialists in extispicy and flute players, respectively, at its end. However, they figure within a much longer list, and there is no reason to associate them with the definition of festivals in chapter 64; priests are not dealt with before chapter 66. It is much easier to suppose an association of catchwords between the payments at the end of the year in chapter 63 and the definition of costly dates at the beginning of the year in chapter 64. There is no general concept of religion that could serve as an overall structure, as was vaguely suggested by Michael Crawford.¹⁵

To complete this picture, it is necessary to turn to the other, rather isolated chapters dealing with religious matters. Pontiffs and augurs, grouped together with the preceding decurions, are the subject of chapter 91. It is prescribed that any newly elected decurion or priest must own a residence within at least a thousand paces of the town, which could serve as a pledge.¹⁶ As the preceding seven chapters, that is, the fifth column of Tablet B, are lost, the context cannot, once again, be reconstructed beyond any doubt. Yet the following chapters suggest that 91 is an integral part of a sequence dealing with the decurions and, in particular, with questions of liability.

In chapters 125–28, games are the subject of the regulations. Here, the context is clearer. At least from chapter 124 onward, questions of the dignity and authority of the decurions and the magistrates are discussed. Hence three of the four chapters on games (125–27) deal exclusively with the order of seats for different status groups during different types of *ludi*, even discussing the problems of the presence of higher provincial magistrates or Roman senators and their sons (127). Chapter 128 describes the organization of all kinds of religious cults through the annual appointment of *magistri* and their control. The presence of chapter 128 was certainly due to the intention to complete regulation of the games, but its main *raison d'être* is to continue the detailed discussion of the division of labor and authority between the magistrates and the decurions. Thus, more or less like chapters 126, 129, 130, and 131, chapter 128 opens with *Il(uir) aed(ilis) praefectus c(oloniae) G(enetiuae) I(uliae) quicumque erit*.

What have we learned about the law's notion of religion? First, religion is dealt with insofar, and only insofar, as it is public religion. There is religion outside public religion—otherwise the author would not need to stress that he is talking about *quae sacra fieri publice placeat*, about the public cult of the colony. But this religion is not part of any regulation. For example, in talking about *collegia*, there is no indication that either the *lex Ursonensis* (ch. 106) or the *lex Irnitana* (ch. 74) has anything else in mind than the outlawing of *coetus*, of ganging up or a riotous assembly.¹⁷ If cults formed *collegia*, there was simply no visible interest in regulating that.¹⁸

As far as the author of the *lex Ursonensis* is concerned, to talk about religion is to talk about rituals. *Sacra* is the most general term employed,¹⁹ and rituals could be specified as *ludi circenses* and *scaenici*, “games and plays,” and even *gladiatores*, “gladiators,” *sacrificia*, “sacrifices,” and *puluinaria*, meals prepared for the statues of the gods.²⁰ These rituals depend on public money and the decurions' and magistrates' action. Religion comes into focus

as part of the magistrates' competence. It is, however, a primary duty, to be regulated early in their year of office: the festivals have to be defined within the first ten days (ch. 64), while concrete measures and financial regulations have to be completed within sixty days (ch. 69). In the view of the *lex Ursonensis*, religion is not something to be instrumentalized, to be regulated or tolerated, but an important part of a Roman colony's magistrates' business.

The Calendar of Festivals

If religion is such an important part of towns inhabited by Roman citizens, it is important to determine its characteristic features. Festivals, time and space, and the choice of gods, priesthoods, and rituals could all be parameters for defining the "Romanness" of the colony. The first question to ask is whether the Roman calendar served as the temporal framework of the political and the religious in Urso. We do not know of any law prescribing the use of the Roman calendar outside of Rome; a Greek lunisolar calendar was in use in the Augustan colony of Tauromenium, attested by an intercalary month, *Apellaíos deúteros*, and Greek dates in numerous inscriptions.²¹ And yet a centrally placed calendar informed Tauromenium's citizens about the relationship of their local calendar to the Roman calendar. Without hesitating, the Roman government and military used Roman dates for their administrative purposes.²² The famous Gaulish calendar of Coligny systematizes and displays an indigenous system using the technical devices of the Roman *fasti*, and thereby attests how widespread this calendar was in the Western Mediterranean.²³ Roman dates are used in norms applied to policies outside of Rome in some instances—for example, the *kalendae Ianuariae* and the *eidus Martiae* in a late republican *lex agraria*,²⁴ and the *kalendae Quinctiles* in that part of the *Tabula Heracleensis* that might be quoted from the *lex Iulia municipalis*.²⁵

Such dates appear in the *lex coloniae Genetivae*, too. In chapters 18 and 63 the *kalendae Ianuariae* are used to define a period of service of the first attendants (*apparitores*) ever of the colony. In chapter 81 *nundinae* are presupposed; the public gathering on the market days would form the best occasion for the administration of the oaths of the public scribes. However, there is no reason to identify these *nundinae* with the rhythms of eight days known from the city of Rome; they might, for example, have been organized twice a month only.²⁶ As the relative dating of all deadlines—"within five or sixty

or similar days from their entering of office”—demonstrates, not even the periods of office are prescribed in terms of the Julian calendar. Presupposing the technical skeleton of the Julian calendar, its use in organizing the temporal structure of the colony’s life is left to the colonists.

The principle can be nicely illustrated by examining the definition of cults as formulated in chapter 64:²⁷

LXIII. Iiviri quicumque post colon(iam) deductam erunt, ii in diebus X proxumis, quibus eum mag(istratum) gerere coeperint, at decuriones referunto, cum non minus duae partes ader<u>nt, quos et quot dies festos esse et quae sacra fieri publice placeat et quos ea sacra facere placeat. quot ex eis rebus decurionum maior pars, qui tum aderunt, decreuerint statuerint, it ius ratumque esto, eaque sacra eique dies festi in ea colon(ia) sunt.

LXIII. Whoever shall be Iiviri after the foundation of the colony, they, within the next ten days after that on which they shall have begun to hold that magistracy, are to raise with the decurions, when not less than two-thirds shall be present, which and how many days it may be agreed shall be festivals and which sacrifices shall be publicly performed and who shall perform those sacrifices. And whatever of those matters a majority of the decurions who shall then be present shall have decreed or decided, that is to be legal and binding, and there are to be those sacrifices and those festival days in that colony. (trans. Michael Crawford)

The theological, personal, and temporal structure of the public cult at Urso is subject to a majority decision. That conforms to the Varronian notion of festivals. Their names are political terms, *ciivilia uocabula*.²⁸ The term *dies festi* denotes public ritual and merrymaking, open to human organization. The law does not speak of *feriae*, days owned by the gods due to consecrations.²⁹ Thus the annual change of the list, implied by *duoviri quicumque*,³⁰ would not be problematic in religious terms. Yet neither the author nor the *duoviri* intended an annually changing list.³¹ The early deadline demonstrates that the problems of a late announcement of festivals, troubling the late Republic, are known. Practically, the situation must have been even more stable. The continuation of *sacra*, once established, must have been the normal way; variations in accordance with special calendrical circumstances (mostly abolished by the Julian calendar) or the addition of new or unique festivals would have been the exceptions. Perhaps the announcement of festivals—every four years, for instance—

was the most disturbing element. It has to be stressed that Roman practice was already acquainted with *fasti* listing annual festivals but ritually relied on the monthly oral announcement of festivals by the *rex sacrorum*, mixing *feriae indictivae* without fixed days and fixed *feriae stativae*.³² Under these circumstances the lack of municipal and colonial *ferialia*, complete epigraphical lists of local festivals, seems rather normal.

The calendrical practices of Roman colonies can be illustrated by the so-called Fasti Guidizzolenses, probably related to the territory of the *colonia civica* Augusta Brixia. This small-scale inscription was probably a private product; the original size must have been around 55 x 30 centimeters.³³ The calendar is reduced to monthly columns naming the Calends, Nones, and Ides and the distance to these dates only. No juridical character, nundinal sequence of days, festivals, or dedication days are indicated. All the necessary information on festivals is given in a list to the right of the calendar, a small *feriale*. Such calendars must have been in use in Urso, too. The Brixian use of stone for the festival list indicates its stability, but the form of the calendar would rarely invite anybody to have such an instrument produced as a representative inscription.

Space

Before we can deal with the choice of cults, attention must be given to the spatial implications of the *lex*. It must be stressed that the boundary produced by the foundation rite—"where the plough will have been drawn around"—is first mentioned in chapter 73—only, that is, after the "religious" or *sacra* section. There it is the boundary of the *oppidum* proper, within which corpses should be neither interred nor burned, nor tombstones erected. In contrast to this, the location of public cults is not regulated at all. The possibility of performing public cult even outside the colony is mentioned several times, always without any air of exception.³⁴ The public character of cults is not a matter of space but of initiators and financing.

Choice of Cults

Apart from the financial considerations of chapters 64 and 65, there are no norms whatsoever regarding the selection of the deities to be venerated.

Rather, the general regulations in chapters 64, 65, and 128 imply a wide range of sanctuaries, deities, and rituals. Indirectly, however, two festivals are given an important status a priori. Chapters 70 and 71 oblige the highest magistrates of the colony to organize “shows” or plays.³⁵ Four days for the Capitoline triad—Iuppiter, Minerva, and Iuno—are to be set aside by the *duoviri*, while three days are to be set aside by the *aediles* for the same three deities, and a fourth day for Venus:

[L]XX. *Ilviri quicu[m]que erunt, ei praeter eos, qui primi post h(anc) l(egem) [fa]cti erunt, ei in suo mag(istratu) munus ludosue scaenicos Ioui Iunoni Mineruae deis deabusq(ue) quadriduom m(aiore) p(arte) diei, quot eius fieri poterit, arbitrato decurionum faciunt inque eis ludis eoque munere unusquisque eorum de sua pecunia ne minus (sestertium) (bina milia) consumito et ex pecunia publica in sing(ulos) Ilvir(os) d(um)t(axat) (sestertium) (bina milia) sumere consumere liceto, itque eis s(ine) f(fraude) s(ua) facere liceto, dum ne quis ex ea pecun(ia)umat neue adtributionem faciat, quam pecuniam h(ac) l(eg)e ad ea sacra, quae in colon(ia) alioque quo loco public{a}e fient, dari adtribui oportebit.*

LXX. Whoever shall be Ilviri, they, except for those who shall be first appointed after this statute, they during their magistracy are to organize a show or dramatic spectacle for Iuppiter, Iuno, Minerva, and the gods and goddesses, during four days, for the greater part of the day, as far as shall be possible, according to the decision of the decurions, and each one of them is to spend on that spectacle and on that show not less than 2,000 sesterces from his own money, and it is to be lawful to take and spend out of public money up to 2,000 sesterces for each Ilvir, and it is to be lawful for them to do so without personal liability, provided that no-one take or make assignment from that sum, which sum it shall be appropriate to give or assign according to this statute for those sacrifices, which shall be publicly performed in the colony or in any other place.

LXXI. *Aediles quicumq(ue) erunt in suo mag(istratu) munus ludos scaenicos Ioui Iunoni Mineruae triduom maiore parte diei, quot eius fieri poterit, et unum diem in circo aut in foro Veneri faciunt, inque eis ludis eoque munere unusquisque eorum de sua pecunia ne minus (sestertium) (bina milia) consumito deue publico in sing(ulos) aedil(es) (sestertium) (singula milia) sumere liceto, eamq(ue) pecuniam Ilvir praefectusue dandam adtribuendam curanto itque iis s(ine) f(fraude) s(ua) c(apere) liceto.*

LXXI. Whoever shall be aediles, during their magistracy they are to organize a show or dramatic spectacle for Iuppiter, Iuno, and Minerva, during three days, for the greater part of the day, as far as shall be possible, and during one day (games) in the circus or (gladiators) in the forum for Venus, and each one of them is to spend on that spectacle and on that show not less than 2,000 sesterces from his own money, and it is to be lawful to take from public funds 1,000 sesterces for each aedile, and a Ilvir or prefect is to see that that sum is given or assigned, and it is to be lawful for them to receive it without personal liability. (trans. Michael Crawford)

The doubling of the games and the mixture of public and private spending produce a competitive situation, ensuring a high level of engagement and furthered by the definition of a minimum length and a private minimum sum to be spent.³⁶ Euergetism and its forms had to be taught to the new “elite” of the new colony.³⁷ The divine addressees are thus given ritual stress and a high symbolic position within an annual festival cycle still unknown. The particular combination of deities assured the Roman character of the triad.³⁸ Flanked by Minerva and Iuno, Iuppiter is no Zeus, and Iuno could not be understood as a local mother goddess. In the first instance, the presence of these political deities is neither temporal nor spatial, but ritual. The symbolic link to Rome is thus intimately tied to the top of the locally ruling elite, the highest magistracies. In terms of ritual expenditure, the popularity of the upstarts is directly linked to the cult of the Roman triad. To a lesser degree, the same mechanism is applied to the deity associated with the founder of the colony, Venus, or rather Venus Genetrix, a deity intensely cherished by late republican aristocrats.³⁹

The analysis of the *lex Ursonensis* should not be isolated from later developments. The charter of the *municipium* Flavium Irnitatum in central Hispania Baetica shows regulations applied to a colony founded in an existing community that is allowed to continue its festival practice insofar as its elements have not been ruled illegal before.⁴⁰ The formal procedure is similar to the practices at Urso,⁴¹ but the resulting list of days unsuitable for legal business is distorted—or characterized—by festivals of the imperial family, calendrically defined at Rome:

R(ubrica). Quibus diebus res ne iudicentur et in quos? in tertium ne detur.—Ne quis in eo municipio i(ure) d(icundo) p(raerit) is diebus iudicem

arbitrum recipitatores rem priuatam iudicare sinito, neue in eos dies in tertium dato, quos dies propter uenerationem domus Augustae festos feriarumue numero esse haberique o[p]ortet oportebit, quibusque diebus ex decurionum conscriptorumue decreto spectacula in [e]o{m} municipio edentur, epulum aud uesceratio municipibus aut cena decurionibus conscriptisue municipum impensa dabitur, quibusque diebus comitia in eo municipio erunt ique dies h(ac) l(ege) constituti erunt per quos messis et uindemiae causa re[s] prolatae sint, nisi si iudex arbiterue aut recipitatores et quorum res agetur omnes dum d(e) e(a) r(e) agi uolent, neque is dies erit quem propter uenerationem domus Augustae festum feriarumue numero esse haberique oportebit. neue quis iudex neue arbiter neue recipitator per eos dies, quibus s(upra) s(criptum) est, rem priuatam iudicato neue litem aestumato neue per eos dies operam iudicandi causa dato neue sententiam iudicandi causa dicito, nisi si iudex arbiterue aut recipitatores et quorum res agetur omnes dum d(e) e(a) r(e) agi uolent, neque is dies erit quem propter uenerationem domus Augustae festum feriarumue numero esse haberique oportebit. neue quis in eos dies aduersario in tertium iudici arbitro in biduo proximo iudicandi causa denunciato, nisi si iudex arbiterue et quorum res agetur omnes tum de e(a) r(e) agi uolent, neue is dies erit quem propter uenerationem domus Aug(ustae) festum feriarumue numero esse haberique oportebit. quod aduersus ea factum erit [id] ratum ne esto.⁴²

Rubric. On what days matters may not be judged and for what days notice for the third day may not be granted. Whoever is in charge of the administration of justice in that *municipium* is not to allow a *iudex* or arbiter or *recuperatores* to judge a private matter on those days nor is he to grant notice for the third day for those days which it is or will be appropriate to have or regard as feast-days or in the category of festivals because of the worship of the Imperial house, and on the days on which games are given in that *municipium* by decree of the *decuriones* or *conscripti* or a meal or distribution of meat is given to the *municipes* or a dinner to the *decuriones* or *conscripti* at the expense of the *municipes*, and on the days on which there are assemblies in that *municipium*, and on the days which are fixed under this statute as the days on which business is postponed because of harvest or vintage; except if the *iudex* or arbiter or *recuperatores* and those whose case is being heard all wish it to be heard then and it is not a day which it is appropriate to have or regard as a feast-day or in the category of festivals because of the worship of the

Imperial house. No *iudex* or arbiter or *recuperator* is to judge a private matter on those days which have been laid down above or value a case or devote attention for the sake of judging or express an opinion for the sake of judging, except if the *iudex* or arbiter or *recuperatores* and those whose case is being heard all wish it to be heard then and it is not a day which it is appropriate to have or regard as a feast-day or in the category of festivals because of the worship of the Imperial house. And no one is to serve notice for the third day for those days to an adversary or a *iudex* or arbiter within the previous two days for the sake of judging, except if the *iudex* or arbiter and those whose case is being heard all wish it to be heard then and it is not a day which it is appropriate to have or regard as a feast-day or in the category of festivals because of the worship of the Imperial house. Whatever is done contrary to these rules is not to be legal or valid.⁴³

The complicated and vague terminology of *dies quem propter uenerationem domus Augustae festum feriarumue numero esse haberique oportet* suggests a centrally defined character and fixing of these days.⁴⁴ Urban religion, “Staatsreligion,” to use the term of Georg Wissowa, is replaced by court religion, “Hofreligion.”⁴⁵ The dissolution of the spatial reference is accompanied by a temporal centralization. We are far into the imperial period.

Priesthoods and Rituals

Chapters 66–68 of the *lex Ursonensis* prescribe the institutionalization of two priesthoods that, by their names and specific regulations, point to the city of Rome: pontiffs and augurs.⁴⁶

LXVI. Quos pontifices quosque augures C(aius) Caesar, quiue iussu eius colon(iam) deduxerit, fecerit ex colon(ia) Genet(iua), ei pontifices eique augures c(oniae) G(enetiuae) I(uliae) sunt, eiq(ue) pontifices auguresque in pontificum augurum conlegio in ea colon(ia) sunt, ita uti qui optima lege optumo iure in quaque colon(ia) pontifices augures sunt erunt. iisque pontificibus auguribusque, qui in quoque eorum collegio erunt, liberisque eorum militiae munerisque publici uacatio sacro sanctius esto uti pontifici Romano est erit, eaque militaria ei omnia merita sunt. de auspiciis quaeque ad eas res pertinebunt augurum iuris dictio iudicatio esto. eisque pontificib(us)

auguribusque ludis, quot publice magistratus facient, et cum ei pontific(es) augures sacra publica c(oloniae) G(enetiuae) I(uliae) facient, togas praetextas habendi ius potestasq(ue) esto. eisque pontificib(us) augurib(us)q(ue) ludos gladiatoresq(ue) inter decuriones spectare ius potestasque esto.

LXVI. Whichever pontiffs and whichever augurs C. Caesar, or whoever shall have founded the colony at his command, shall have appointed from the *colonia*, they are to be the pontiffs and they the augurs of the *colonia* Genetiva Iulia, and they are to be the pontiffs and the augurs in the college of pontiffs or augurs in that colony, in the same way as those who are or shall be pontiffs and augurs with the best conditions and the best status in any colony. And for those pontiffs and augurs, who shall be in each of their colleges, and for their children, there is to be exemption from military service and compulsory public service by what is sacred, as for a Roman pontiff, and their periods of military service are all to be credited to them. Concerning auspices and whatever things shall pertain to those matters, jurisdiction and right of judgment are to belong to the augurs. And those pontiffs and augurs at the games, whenever the magistrates shall give them publicly, and when those pontiffs and augurs shall perform the public sacrifices of the *colonia* Genetiva Iulia, are to have the right and power of wearing *togae praetextae*. And those pontiffs and augurs are to have the right and power to watch games and combats of gladiators among the decurions.

LXVII. Quicumque pontifices) quique augures c(oloniae) G(enetiuae) I(uliae) post h(anc) l(egem) datam in conlegium pontific(um) augurumq(ue) in demortui damnatiue loco h(ac) l(ege) lectus cooptatusue erit, is pontif(ex) augurq(ue) in c(olonia) Iul(ia) in conlegium pontifex augurq(ue) esto, ita uti qui optuma lege in quaque colon(ia) pontifices) auguresq(ue) sunt erunt. neue quis quem in conlegium pontificum kapito sublegito cooptato nisi tunc cum minus tribus pontificib(us) ex iis, qui c(oloniae) G(enetiuae) sunt, erunt. neue quis quem in conlegium augurum sublegito cooptato nisi tum cum minus tribus auguribus ex eis, qui colon(iae) G(enetiuae) I(uliae) sunt, erunt.

LXVII. Whoever after the issuing of this statute shall have been chosen or co-opted according to this statute as pontiffs and augurs of the *colonia* Genetiva Iulia into the college of pontiffs and (the college) of augurs in

the place of a man who has died or has been condemned, he is to be pontiff or augur in the *colonia* Iulia in the college as pontiff or augur, in the same way as those who are or shall be pontiffs and augurs with the best conditions in any colony. Nor is anyone to receive or choose in replacement or co-opt anyone into the college of pontiffs, except at a time when there shall be fewer than three pontiffs among those who are of the *colonia* Genetiva. Nor is anyone to choose in replacement or co-opt anyone into the college of augurs, except at a time when there shall be fewer than three augurs among those who are of the *colonia* Genetiva Iulia.

LXVII<I>. Iluiri praef(ectus)ue comitia pontific(um) augurumq(ue), quos h(ac) l(ege) facere oportebit, ita habeto, prodicito, uti Iluir(um) creare facere sufficere h(ac) l(ege) oportebit.

LXVIII. The Ilviri or prefect is thus to hold and proclaim an assembly for pontiffs and augurs, whom it shall be appropriate to appoint according to this statute, in the same way as it shall be appropriate to elect or appoint or appoint in replacement a Ilvir according to this statute.
(trans. Michael Crawford)

At first glance, the text seems to be rather straightforward. Urso is given the appearance of a Roman town by replicating in it two of the most prestigious religious institutions of the city of Rome, the augurs and pontiffs. The situation, however, is more complex. The law is engaged in a discourse about religion, especially public religion, which is structured by controversial stances.

For the founder(s) of the colony, the existence of augurs and pontiffs as colonial priesthoods is a matter hallowed by tradition and universal practice. The most visible symbolic honor, the seating and dress at games, is regulated, as are the most important personal consequences, the exemption from military and public services. The rest of the chapter is given over to a “most-favored-nation clause” implying a global view of a widespread institution, rather than the existence of “general regulations on priesthoods in Roman colonies” as envisaged by Crawford.⁴⁷ In a comparison between different colonies (and even to Rome), the local denial of certain privileges to their priests would not be acceptable.

Roman *pontifices* and *augures* were not only the most prestigious of public priesthoods, but the most powerful, too. Having judicial authority over priestly conduct, the religious quality of land and the gods' property, the sacral quality of time, and—before the calendar reform in 45—intercalation, the pontiffs held a central position within the diffuse network of religious authority. The position of the supreme pontiff, the *pontifex maximus*, would eventually develop into the most important and most ostentatiously displayed religious function of the emperors.⁴⁸ The augurs, by virtue of their expertise in augury, were involved in every major political decision, from the election of magistrates, through legislation, to the battlefield.⁴⁹ What did these priests do at Urso? We know nothing about the pontiffs. Supervision of cults and funds is given to the *duoviri* and the *aediles*, the definition of days of festivals to the decurions. The specific sacral categories of *feriae* and *locus sacer* are nowhere hinted at, while the question of *loca religiosa*, burial places, is basically left to the magistrates (ch. 73); perhaps the pontiffs had a stake in the process of expiation, mentioned in passing in the same text.

A direct definition is given of the augurs' field of activity: augury and the like. What, however, was "the like?" And what sorts of augury did exist in a colony? The copying of—or even establishment of a parallel to—the Roman *auguraculum* in the Roman colony of Bantia is, as far as we can see, unique;⁵⁰ it does not imply a politically relevant role for augurs comparable to Roman augurs' participation in *obnuntiatio*.⁵¹ There is no indication at all in the *lex Ursonensis* or fragments of other regulations that the highly complex system of balance of senatorial groups and individuals found in republican Rome itself was reproduced in colonial institutions outside of Rome. To sum up, we simply cannot see what colonial priests did. At least, it is certain that they did not have any role within the functioning of the institutions described in the *lex coloniae*.

This is congruent with those modifications of Roman rules that we can observe. I leave aside the question of whether a colonial augur could lose his office, unlike—or like?—augurs at Rome.⁵² It has to be remembered that even the lack of housing property in the town could lead to one's removal within the first five years of office (ch. 91)—standards of aristocratic behavior and honor could not be presupposed for an elite *in statu nascendi*. Other differences are more decisive. At Rome, a complicated procedure was followed for the election of the candidates nominated (and later co-opted) by the college proper. Seventeen out of thirty-five tribes (*tribus*), that is, just shy of a majority, were selected by lot in order to determine the succession of

priests, a procedure certainly reinstated by the *lex Labiena*.⁵³ At Urso, this attempt to differentiate priests from magistrates and to preserve religious authority as authority *sui generis* was not followed. *Pace* chapter 68, priests were selected in the same manner as magistrates. The second difference concerns the number, three instead of fifteen or sixteen members in each college. This is not an attempt to reproduce original Roman practice,⁵⁴ but the restriction of the college to the very minimum of what could be called a *collegium* at all. I even doubt whether the Roman procedure of *nominatio* by the college was copied: the position of the two (or even one) remaining would not be strong enough to make a preselection of candidates socially acceptable.

Chapters 66–68 are rulings about augurs and pontiffs specifically, not about “priests” as a broad category. The generic term *sacerdotes* is never used in this text. The only instance of its application, in chapter 91, concerns the public lists of decurions and *sacerdotes*. The implication must be spelled out: There might be other priesthoods at Urso, too. They are, however, neither established by official decree nor granted any privileges. If they had any, it would be due to their members’ status as decurions, for example. Compared to the number of public priesthoods at Rome, this list of two items only, pontiffs and augurs, is restrictive.

It is time for a preliminary conclusion. Our analysis of the regulations concerning pontiffs and augurs (or augurs and pontiffs in chapter 91, thus making it impossible to determine their rank relative to one another) does not reveal a simple miniature version of the actual arrangement of Roman priesthoods during the late Republic. These traditional colleges are not positively used as symbols of the colony’s Romanness, but rather are accepted as unavoidable remnants of tradition. The potential political implications of the priestly offices are restricted. With regard to the structure of public cult as developed in the other chapters, these colleges are not necessary. Against the backdrop of traditional Roman religious authority, the inclusion of the priesthoods held for life in the charter’s chapters on religion does not mark an integration, but an explicit exclusion, a literal as well as metaphorical bracketing. The execution of public religion is given to annual *magistri*, appointed and controlled by the local council as regulated in chapter 128, or else handled by the magistrates themselves.

Another, brief look at the *lex Irnitana* is necessary before turning to a final conclusion. Which are the rituals envisaged for public religion at Urso? Prominence is given to games, circuses and gladiators, and, especially, plays, *ludi scaenici*.⁵⁵ Apart from the generic *sacra*,⁵⁶ only the chapter on the *magistri*

adds further specifications, naming *ludi circenses*, *sacrificia puluinariaque* (ch. 128). Circus games and “couches,” that is, the public display of statues and busts of the gods to whom a banquet is being presented,⁵⁷ are definitely spectacular rituals. The repeated framing of *sacrificia* by these two types of rituals (Tablet E, col. 2, lines 17 and 20) suggests larger public animal sacrifices, also concluded by banquets.⁵⁸ Public religion at Urso is publicly visible; it is, at its core, participatory religion.

Two-Layered Religion

In tracing processes of rationalization it is very important to identify the implicit assumptions, notions, and driving concerns in the text. Of course, the degree of explicitness is in itself an important fact. The model of religion as drawn by the surviving norms of the *lex Ursonensis* is characterized by a two-layered structure. Religion has a firm place within the sociopolitical fabric of the *colonia*. As public cult (*sacra publica*), it is financed and organized by the council and its magistrates—the financing of the cult is the leitmotif that holds together the whole passage on religion.⁵⁹ It is characterized by large public rituals. The concrete content of this religion is left to the local elite and its financial power. The cult of the Capitoline triad and, to a lesser degree, Venus, presumably Genetrix, the only religious element fixed a priori, does not seem to aim at providing a focus for or island of Romanness within a foreign province. More probably, it ensures that any attempts by local magistrates to create a distinctive personal image for themselves must employ devices—*ludi Capitolini*, so to speak—symbolically related to the central government, to Rome.

The existence of a second layer of religion is rather implicitly, or even negatively, formulated. Priesthoods, expiation, burials, and ancestor cult belong to this layer; (private?) associations might form further elements. This layer does not form an integral part of the political structure and public religion of the colony. It is by no means illegal, but it must not interfere with political activities. The regulations concerning pontiffs and augurs attempt to transfer a traditional element of the first layer to the second layer, both acknowledging and isolating this time-honored institution of public religion at Rome. At Urso, all priesthoods are subordinated to magisterial power. Chapter 72, dealing with private donations to temples, should not be read as an extension of public guarantees for the functioning of religion, but as a

regulation to ensure that religious activities at the borderline between public and private—that is, private donation to publicly defined cults—should be kept within a spatially circumscribed (*in ea aede*) realm of religion. Resources legally accumulated under the umbrella of religion should not be used to interfere with the larger sociopolitical realm.

The *lex Ursonensis* does not offer evidence for an all-encompassing Roman *Sakralrecht*, but it does provide ample testimony to the level that systematizing approaches toward religion had attained, and to the degree of rationalization now present in legal forms. Legal techniques are used to limit the possibilities of independent religious action, without thereby interfering with time-honored religious traditions. Just as Varro treats religion as only a part—and the second part, at that—of the *Antiquitates rerum humanarum et divinarum*, so the *lex Ursonensis* does not deny that the deities must have their due, but it nonetheless construes religion as a social activity, subjected to the priorities of public law.

Chapter 10

Religious Discourses in the Second and First Centuries: Antiquarianism and Philosophy

I stressed at the very beginning of this work that the Weberian concept of rationality should not be restricted in its usage to theoretical rationality, that is, to a certain way of arguing by applying Aristotelian logic. Instead, starting with ritual, I have traced the systematization of procedures and institutional arrangements, of political aims and values, and sought to describe these as incipient forms of rationalization. In the immediately previous chapters I extended this inquiry and its heuristic to the domain of law. In order to vindicate the claim that all the traces detected so far are part of a general trend of rationalization, and of rationalization of religion in particular, I turn now to those texts that most explicitly thematize religion. They belong to a genre usually termed antiquarianism. Before important—but, once again, often fragmentary—texts by Ennius, Varro, and Cicero are addressed in Chapters 11–13, this introductory chapter will attempt to situate these texts within the history of the period subsequent to the second half of the third century. It will advance the thesis that the massive confrontation with, and influx of, extra-Italian, and above all Greek culture, the heightened communication among Italian elites, and the social pressure on the Roman nobility exerted by the enormously heightened potential for social differentiation that resulted from military expansion impelled new self-consciousness toward the definition, codification, and transmission of what we might call cultural patrimony or tradition. The cultural work and cultural forms that issued from this new self-awareness are the subject of Chapters 11–13.

The literature of the Roman Republic ends with a series of works in which religion—as we understand it today—has become the sole, or at least most important, subject of the text. Lucretius's *De rerum natura* not only

makes room for theology in the strict sense, and for the physical description of the gods, but also formulates the teachings of Epicurus as a means of “salvation” (or, perhaps less offensively put, as a life philosophy)—in its terms, as an alternative to the worldview the Epicureans associated with religious practices and fear of the gods.¹ M. Tullius Cicero’s dialogue *De natura deorum* (On the Nature of the Gods) discusses the “nature of the gods” and their relation to humanity in a loose representation of both older and more recent Greek-Hellenistic positions.² Finally, M. Terentius Varro’s *Antiquitates rerum divinarum* (Antiquities of Divine Affairs) summarizes late republican knowledge of religious institutions and the gods to whom they are dedicated. It became a canonical point of departure for the description of a specifically Roman religion, whether polemically or for positive reception. The work is, alas, known to us exclusively through fragments and paraphrase.³ A plethora of other contemporary literature is known only by title or in scanty fragments, at the forefront of whose concerns are topics of both cultic and political importance, such as divination and the holidays of the Roman year.⁴

The surviving texts reveal considerable influence from classical and later Greek philosophy; indeed, they constitute a primary source for the investigation and reconstruction of Greek philosophy of the Hellenistic period, although the texts understood themselves as an attempt to make Greek thought comprehensible to a Roman public.⁵ This work of translation was conducted in two domains crucial to our concerns: on the one hand, these authors wrote in Latin, then a novel (and challenging) choice for philosophical writing; and on the other, they frequently employed Roman examples, and so subjected the institutions of their own culture to exogenous forms of rationalization and critique. The validity of religious assumptions was thereby subjected to examination on the basis of nonreligious premises and evidence.

The same principle might have been applied in the parallel treatment of political order and human behavior in contemporaneous works of political theory and ethical philosophy. However—and this brings me full circle—the procedure of *reddere rationem*, giving an account, could not be measured solely by the standards of a Greek discourse on logic.⁶ The evaluation of evidence was understood to depend in very large measure on social and cultural context. For example, plausibility, a core concern of classical rhetoric, was not least of all dependent on the person of the speaker.⁷ Still more interesting is the question of which topics could enter the forum of argumentative conflict or become the object of systematizing processes in the first place. When Cato the Elder begins his history in the first half of the second century

by requiring and giving an account of the whole of life, defined as consisting of *otium* (leisure) and *negotium* (business, nonleisure), it is clear that standards connected with a universalizing ethic were transported to Rome even as the Romans imported Greek artifacts and entertainment. Such networks and patterns of cultural exchange are important features of empire.⁸

Alongside this rational discourse on “religion” (again, a modern umbrella term that has no ancient equivalent), there existed other modes for the inscription of religion, following different rules—namely so-called antiquarian literature.⁹ It is precisely Varro’s work (which builds a philosophical, rational framework around an antiquarian kernel) that allows us to distinguish and to characterize this literature.¹⁰ Beyond that work, however, surviving titles do not reveal much about the works they headed, even though it seems reasonable to suspect that the approach undertaken in any given work will have been more overtly “antiquarian” the more concrete and more closely connected to institutions and objects its topic was: “On the Nature of the Gods” and “On Divination” very likely achieved a higher level of abstraction than “On the Auspices” or “On the Roman Year.”

Engagement with, even inspiration by and transmission of, Greek positions is central for the group of texts named first above.¹¹ This direction is already perceptible at the beginning of the second century in Ennius’s *Euhemerus*,¹² but this remains an isolated instance.¹³ Direct connections cannot be identified, either with regard to content or with regard to form (the first Latin poetry?). Because of this gap, which may well be not merely an accident of textual survival but instead a result of actual literary production, Claudia Moatti does not explicitly discuss the date of this development, although she calls in Cicero as the first witness.¹⁴

The second group of texts, characterized above as “antiquarian,” can be traced back decidedly further than those I have named “rationalizing,” and definitely begins in the middle of the second century. A Latin book about the *ius pontificale*, by Sergius Fabius Pictor, who as Flamen Quirinalis was a member of the priestly college,¹⁵ seems to represent the first literary product of this type.¹⁶ Further works from the hands of senatorial authors followed.¹⁷ Even here one cannot exclude the possibility of contact with and inspiration from relevant Greek texts: apart from Atthidography, which probably reveals the closest parallels, one also thinks of general historiography, specialist literature, and aetiological poetry of a Callimachean type.¹⁸ The primary roots, however, are to be found in Rome, in the reaction of a society to the discovery of the vulnerability of its traditions, a society, that is, in a state of rapid

change because of rapid demographic expansions as well as newly intensified contact with other cultures, among which the most important were naturally those of Greece and Carthage. “Antiquarian literature” reacts by collecting traditions, systematizing them, and committing them to writing, about 150 years after the writing of protocols at meetings had commenced, which is to say, around the start of the third century.¹⁹

A sketch at this level of generality is likely to find considerable consensus. However, there are also particular issues arising from it that need to be pursued. The central question is that of the relationship—especially the chronological relationship—between these two modes or, to phrase matters better, between these types of rationality. Indeed, even the simple act of fixing traditions in a written form and systematizing them is a form of rationalization. Critical reflection on traditions and their endangerment, the elaboration of observed and narrated practices for purposes of precision, the ordering and classification of diverse cultural practices—these are all fundamental preconditions and implications of the inscription of religious traditions. (Stated thus, this is a central claim of this work as a whole.)

Allow me to illustrate with an example, to which I shall return by and by. The ritual rules collected by Varro within the first triad of books claim to be legitimated by their supposed antiquity. However, like all oral traditions, they are not as fixed as they claim. Within a society that is subjected to massive transformations, even traditions become “liquid,” adapt themselves to new contexts, or are subjected to experimentation in a rigorist manner as people pursue the consequences of religious values that are in conflict with, or even detrimental to, the usual integration of religious roles and practices into society.²⁰ A fascinating example may be found in the second half of the third century. At some point in time in the late Republic, the Flamen Martialis and the Flamen Quirinalis, two types of priests, gained permission to take over provincial positions that entailed a sustained absence from the city of Rome.²¹ The nature of the innovation worked by this change may be gauged by assessing it against anecdotal evidence for an earlier dogmatism: for example, shortly before 218 successive *flamines diales* lost their priesthood because their caps fell from their heads while they were outside.²² This formal rectitude was clearly detrimental to the careers of individuals among the nobility and was thereafter discontinued. In other cases, such rectitude has far greater consequences. At the beginning of the second century, for example, one of the Scipiones halted an entire military expedition for those days that witnessed rituals at Rome by the priestly college of which he was a member, the Salii.²³

The reaction to such relaxing of tradition that resulted from increasingly accelerated cultural change was manifold.²⁴ One of the important and relatively widespread elements of this reaction was, as we have seen, the expansion of the role of writing. At about the time of the First Punic War, the prestigious colleges of public priesthoods began to take minutes. These texts were records and were neither normative nor systematic, but they could be used for control and regulation by pointing to precedents or by documenting membership, as recorded in dates of entry or death.²⁵

By the end of the third century a systematization of Roman myths and of gentilician claims to consular ancestors, which took the form of Greek historiography, commenced.²⁶ The process started with Greek texts that must have been destined for private reading, but was soon supplemented by Ennian epic and public lists of magistrates added to calendars that recorded the victories of Roman generals as a consequence of recording the dates of foundation for votive temples.²⁷ In the second third of the second century the first incipiently systematic treatises that formulated the rules applying to particular magistracies appeared: *De iure pontificali* (On Pontifical Law), *De censoribus* (On the Censors), and *De potestatibus* (On Magistracies).²⁸ To judge from the few fragments that survive, mostly stemming from a late period, these treatises were not yet systematic handbooks but rather collections of traditions, albeit surely not without interpretation and modification. One can get a reasonable impression of the genre from reading Cato's book on agriculture, a rather less controversial theme for inscription.²⁹ The authors of these texts, epic excepted, stem from the senatorial class.

Whether intentionally or not, inscribed tradition as a whole enters in this period a discursive space that it had previously occupied only through the public citation of notionally inaccessible records (with the obvious if necessary caveat that notionally disinterested "citation" must often have masked modification, falsification, and invention). Argument within or about tradition changed fundamentally when tradition was made subject to writing and to the interests that governed its codification as knowledge. Argument and discussion within antiquarian texts was conducted according to criteria of correct mimesis, reliable sources, and plain efficiency—once again, the similarity to the specialist literature then becoming popular comes to mind. There is a side effect to this: a tradition that could be read and learned could be universalized, too.

In the face of the density and duration of previous contacts with the Greek world it is improbable that the decisive factors for these developments

can be found in a narrative of increasing Greek presence in Rome. This presence itself, the Roman import of statues, libraries, and people, is part of the larger problematic. The question of the relationship to all things Greek thus takes on a specific coloring through the concept of discourse: it arises as a question of the production and intention of images of self and other in the face of the impending collapse of tradition. In the process, Greekness comes into view both as an influence and as a construct but loses its monopoly as a means of explanation. Chapters 11 and 12 attempt to provide a differentiated view of this process, focusing on the exemplary figures of Ennius and Varro, who lived at opposite ends of the most decisive period. Before turning to them, however, it might be useful to summarize the findings so far that are relevant to the analysis to be performed.

The Birth of Religious Reasoning at Rome

When our investigation focuses on forms of argumentation that can be connected to the (religious-) philosophical works of the first century, the most important result is the certain establishment of an early date for a process that has up to now been believed to have first arisen in works of the second quarter of the century. But what significance does this reconstruction have for the history of Roman rationalization? Do we see the same thing more clearly in institutional history, in Greek philosophical embassies or the establishment of scientific grammar—by Krates of Mallos, for example—and Greek and Latin rhetorical schools in Rome?³⁰

The spread of Hellenistic rationality was multifaceted, as Moatti has already shown. In summary, but also in carrying forward her observations, the following points take up the questions raised in the previous chapters.

- Religion, as a system of symbols and practices for which a traditional legitimization is characteristic and for which assumptions about the exceptional are constitutive, becomes explicit in a new way through the rise of rationalization. In terms of system theory, this can be described as heightened differentiation, while in terms of practice theory, a new area arises out of the perspective of the individual participant, and new forms of communication are made available. Religion becomes discursive. This process is necessarily applied to an even greater extent in other areas of culture, once such a central reservoir of values as religion is subjected to it.

• Rationalization also has a social dimension. Rational argumentation competes with traditional authority,³¹ as the resistance to the application of rhetorical theory to Latin makes clear. This can be clearly demonstrated socially: tradition is a source of authority to which the aristocracy has privileged access,³² even if it were always possible to make competing claims. In case of doubt, claims to traditional authority can be backed up by power. Knowledge and argumentation cause a shift of authority into the hands of specialists.³³ For Rome, the interplay of theatrical producers and sponsors of games shows that specialists and other forms of authority could get along well, although the history of the highly literary dramas after the second century, which includes more and more forms from mimes in public performances, also shows that this was a delicate balance. Further, in the second century, “specialists” from the aristocracy and traditional distributions of the roles of observer and observed still dominate.³⁴ Alternative models are suppressed by exiling marginalized specialists such as rhetoricians, astrologers, and philosophers. Only in the transition to the Sullan period do we find annalists and grammarians who do not belong to the aristocracy and who begin a process of professionalization.³⁵ In this connection we should call to mind the conflict between Lucius Accius, the chairman of the *collegium poetarum*,³⁶ and C. Iulius Caesar Strabo, the patrician, in whose presence Accius refused to rise.³⁷ That said, an analysis in terms of the history of argumentation can also demonstrate how strongly these patterns of thought penetrated aristocratic communication. Those members of the aristocracy who early adopted the tools of the new rhetoric gained an instrument that could be deployed both in competition within the aristocracy and in shoring up traditions of aristocratic privilege against mere practitioners of lesser birth. These complex patterns of adoption, resistance, and professionalization are visible from the time of the Gracchi on.

• Specialist knowledge becomes socially relevant only when it is applied to discourses of politics and power. Here rational argumentation truly shines by discrediting prepackaged solutions that rely on social status or the sequencing and ranking of claims in the public sphere according to one or another a priori principle of hierarchization. In fact, in spite of occasional excesses such as the murder of Tiberius Gracchus, the potential for consensus within the nobility remained fairly strong, as attested by the many successfully formed laws and their durability. However, that very durability also shows the ambivalence this process held for the aristocracy—rules, once textualized according to privileged means, take on a life of their own and constrain all in the future.

• In the same way, we can observe a concentration of power in the hands of persons in and around the college of augurs. This may have been coincidence, but in any case divination takes on a status in political activity that it will not lose until the end of the Republic. The conscious integration of divination into decision-making processes that related not only to persons (i.e., elections) but also increasingly to norms (i.e., lawmaking)³⁸ has here been shown to have been a central component of a process of rationalization. This characterization, derived from an examination of the genesis of the very rules that mark the declining Republic, can be confirmed by a closer analysis of the decision-making processes. The high status of the college of augurs in this period no longer appears a coincidence of history or evidence. At the same time, in this perspective, Cicero can be understood as correct when he described this circle as an intellectual center of innovation, not least by using numerous augurs as participants in his dialogues. However, this remains a transitional phenomenon: the greatest of the intellects in the later Roman tradition of writing on religion—Lucretius, Varro, Verrius Flaccus, Ovid, and Suetonius—were not augurs.

Chapter 11

Ennius's *Fasti* in Fulvius's Temple: Greek Rationality and Roman Tradition

The choice of sources for this chapter, purportedly dealing with antiquarian texts in republican antiquarianism, may come as a surprise. The *fasti* painted in the temple of Hercules of the Muses are hardly ever considered in accounts of early antiquarian writing. Thus my claim that it is an important early example of a specific intellectual form of systematizing religion within the framework developed in the previous chapter needs some preparatory justification. What might be one of the earliest Latin instances of an antiquarian text and historiographical work is known only from a few quotations. What is more, there is no agreement whatsoever about the shape of the original “text.” Thus some patience is required before the hypothetical text can be situated in a history of the rationalization of religion at Rome.

Ennius and Fulvius: An Introduction

The text that is the focus of this chapter, the *fasti* in the temple of Hercules Musarum, which I am going to characterize as belonging to the earliest layer of Latin antiquarian “literature,” is unanimously attributed to Marcus Fulvius Nobilior, not to Q. Ennius. We do, however, know of a personal relationship between the poet and the Roman politician. In the opening of his *Tusculan Disputations* Cicero quotes from a speech of Cato the Elder, who reproached Marcus Nobilior, consul in 189, for taking poets to the provinces, presumably because he objected to a poet’s celebrating the deeds of a general. The poet in question, as Cicero does not fail to notice, was none other than Ennius, who accompanied Fulvius on his Aetolian campaign.¹ The late

republican grammarian Lucius Aelius Stilo interprets the famous "Good Companion" passage of the *Annales*² as a veiled portrait of Ennius and thus, implicitly, views the relationship between the patron and the poet in a more positive light.³ These two testimonies demonstrate the spectrum of opinion among ancient writers on the practice of patronage and on the quality of the relationship between patron and poet. This is still a subject of debate today.⁴ For the purposes of my study, it is sufficient to remember that Ennius certainly composed the *Ambracia*, a *fabula praetexta* that dealt with contemporary Roman history, and more specifically, with Fulvius's Aetolian campaign.⁵ Further, Ennius wrote the *Scipio*, which contains the programmatic statement *Nam tibi munimenta mei peperere labores*, "for my poetic labors created a monument for you," which is nothing less than the textual equivalent of the statuary offered by the Roman people that "spoke" Scipio's deeds.⁶

But what was Ennius's role in the making of the "Fasti" in the temple of Hercules Musarum? Although it is highly significant that this work was explicitly offered by and publicly associated with Fulvius, I am going to suggest that Ennius was the "ghostwriter" of the *Fasti*. To prove individual authorship is beyond the scope of this chapter, and perhaps altogether irrelevant. Rather, my aim is to contextualize historically and intellectually the undeniably authentic works of Ennius and reread them as testimony to a complex historical development. I hope to show that this contextualization can further our understanding of Ennius's *Annales* in particular.

Fulvius's *fasti* are associated with a dedication or rededication of a temple of Hercules. Controversial ancient testimonies to and modern interpretations of the occasion that led to the (re)dedication of the temple can be summarized in the following hypothetical reconstruction of events.⁷ When Fulvius returned to Rome with immense booty after the capture of the Aetolian town of Ambracia, he was severely criticized for his sacrilegious (even by Roman standards) plundering of the city's temples.⁸ Like most Roman generals,⁹ he organized splendid and highly innovative games.¹⁰ Further, he displayed a substantial part of his artistic booty, statuary in particular, in his own villas. To many of his fellow senators this seemed excessive, and in a speech transmitted under the significant title *Uti praeda in publicum referatur* (That Plunder Should Be Made Public Property) Cato showed his disapproval of Fulvius's behavior.¹¹ A decade passed, and only when Fulvius held the censorship together with his former enemy Marcus Aemilius Lepidus and was able to cooperate with him did he add a portico to an already existing temple of Hercules, probably the temple of Hercules Magnus Custos in the Campus

Martius. In the portico he dedicated the statues of the Muses that he had taken from Ambracia, and so Hercules became Hercules Musarum—Hercules, the tutor of the Muses. The name was not new—Herakles Musagetes was known in Greece—but in the Roman setting it gained a new meaning, given the dominance now accorded to the Muses within the temple complex.¹² The temple itself was probably used as the meeting place of the *collegium scribarum histrionumque*, the guild of authors and actors, which is described as having met at an earlier date, in 200, in a temple of Minerva;¹³ the guild is very likely identical with the one later denominated the *collegium poetarum*, the guild of poets, and housed in the temple of Hercules.¹⁴

Inscription or Book?

Thus far I have neglected the most important part of the decoration of the interior of the enlarged temple complex. A late and yet very reliable source, Macrobius, probably writing early in the fifth century C.E., is the only author who mentions it. In his account of the names of the months, Macrobius notes that the interpretation of Maius (May) is highly disputed. He introduces his discussion of the possible etymologies of the name with the following statement: “For Fulvius Nobilior says in his *Fasti*, which he placed in the temple of Hercules Musarum.”¹⁵ What type of *fasti*, “calendar” or “list,” does he mean? Unfortunately, the verb used by Macrobius, *ponere*, does not help to clarify this question. That verb can be used to describe any type of material or object. And so we must ask, what exactly does Macrobius describe as *fasti*?

Two possible interpretations have been proposed: Fulvius dedicated either a wall painting or a book. If the term *fasti* refers to a large calendar, it must surely indicate a wall painting, and other objects and materials should be excluded. We do not know of a single example of a bronze calendar at Rome, and we should keep in mind that a large inscription would be expected to appear on the outside of a temple, not inside. We may also notice that a calendar has value primarily as a text, not as an object, unlike, for example, an armillary sphere; hence any precious material should probably be ruled out. In addition to this, painted calendars are the only type of calendar known from republican times down to later imperial times, from the republican *Fasti Antiaties maiores* to the Severan *Fasti Porticus*. The production

of marble calendars was by and large restricted to the age of Augustus and Tiberius.¹⁶

The alternative idea that Fulvius's *fasti* were published in the form of a book has found a number of supporters.¹⁷ To be sure, it is not only dry, factual information that is quoted from Fulvius's *fasti*; we also have citations of commentary on the calendar. This does not, however, force us to envision the publication of the *fasti* as a book. The inscribed stelae of the Augustan *Fasti Praenestini*, composed by the grammarian Verrius Flaccus—admittedly an inscription without parallels—clearly shows that a commentary could be integrated even within the text of the calendar. Further, the few book calendars that we have or are able to reconstruct in any meaningful way do not seem to support the hypothesis that Fulvius's *fasti* were a book. The known book calendars do not contain commentaries; rather, they collect different sorts of lists, usually chronologically ordered. A clear example is the Codex calendar of 354;¹⁸ it is also probable for the fifth-century collection of Polemius Silvius. Nor should we use Ovid's work as a *comparandum*. Ovid's poem does not belong to the genre of *fasti*. His *Libri fastorum* are a commentary on the calendar. The title is but the equivalent of *De fastis*.¹⁹ Since it is highly unlikely that Fulvius dedicated a "pocket calendar," we must infer that, if his *fasti* were indeed a book, it was a lengthy text. This lengthy text could not have been referred to simply by the term *fasti*; Macrobius would have used a phrase like *librum, quem de fastis scripserat*.

These reflections are supported by both biographical evidence and aesthetic issues. First, as far as we know, Fulvius wrote no text other than the *fasti*. Second, a wall painting, perhaps displayed together with paintings that were part of the booty of the Aetolian campaign, would have had a much stronger visual impact than a book.²⁰ Further, it should be stressed that there is no evidence that this meeting place of poets reflected the Alexandrian idea of combining a *musaion* with a library.²¹

In the passage that supplies our only information about the decoration of the Roman *musaion*, Macrobius does not cite Fulvius's *fasti* for the typical information one would find in a calendar. He is mainly interested in the etymology of the names of the months, and it is for this reason that he cites Fulvius. Etymology, however, is not discussed in any other *fasti*, again with the exception of the *Fasti Praenestini*, which put such explanations at the heads of the monthly columns. Hence many scholars have believed that Fulvius's calendar was parallel in form with that of Verrius.²² Alternatively, we could think of a separate book *De fastis*, which would have accompanied

the dedication of the painting and supplied the quotations used by later antiquarians.²³ In order to resolve the problem of the form of Fulvius's *fasti* and its significance, it is necessary to examine the few remaining quotations from the text, which requires that we delve into the problems of the transmission of antiquarian information connected with these quotations. At the same time this analysis offers an aperçu into the topic and types of argument employed by antiquarians from Ennius to Verrius Flaccus in Augustan times.

The Fragments

Varro Ling. 6.33–34 (= fr. 1–2 Funaioli = M. Iunius Gracchanus, fr. 5–6 Funaioli)

Mensium nomina fere sunt aperta, si a Martio, ut antiqui constituerunt, numeres: nam primus a Marte. secundus, ut Fulvius scribit et Iunius, a Venere, quod ea sit Aphrodite; cuius nomen ego antiquis litteris quod nusquam inueni, magis puto dictum, quod uer omnia aperit, Aprilem. tertius a maioribus Maius, quartus a iunioribus dictus Iunius. (34) dehinc quintus Quintilis et sic deinceps usque ad Decembrem a numero. ad hos qui additi, prior a principe deo Ianuarius appellatus; posterior, ut idem dicunt scriptores, ab diis inferis Februarius appellatus, quod tum his parentur; ego magis arbitror Februarium a die februato, quod tum februatur populus, id est Lupercis nudis lustratur antiquum oppidum Palatinum gregibus humanis cinctum.

The names of the months are in general obvious, if you count from March, as the ancients arranged them; for the first month is from Mars. The second, as Fulvius writes and Iunius also, is from Venus, because she is Aphrodite; but I have nowhere found her name in the old writings about the month, and so think that it was called April rather because spring “opens” everything. The third was called “May” from the “elders”, the fourth “June” from the “younger men.” (34) Thence the fifth is called “Quintilis” and so in succession to December, named from the numeral. Of those which were added to these, the prior was called “January” from the god who is first in order [Ianus]; the latter, as the same writers say, was called “February” from the “gods of the Lower World”, because at that time expiatory sacrifices are made to them; but I think that it was called February rather from the “Purification Day,” because

then the people "is purified," that is, the old Palatine town girt with flocks of people is passed around by the naked Luperi.²⁴

Two observations regarding this passage are warranted. First, in his very brief description,²⁵ Varro does not name any authority when he regards an etymology to be uncontestable. Other interpretations are given only when they diverge from his own or when Varro refrains from taking a position. This is clearly visible for February and April, and Varro's treatment of May and June confirms the pattern. We know from Censorinus (see the following section for a discussion of the text) that the etymology of the names of these two months was highly contested and that Varro argued for an etymology different from the one given above by Fulvius and Iunius. In this instance as well, the naming of these authors therefore implies Varro's disagreement. It is likely that these same authors, M. Fulvius Nobilior and M. Iunius Gracchanus, proposed etymologies for the other months, too, but when Varro agrees with them he does not cite them.²⁶

The second point concerns the relationship between Fulvius and Iunius. Fulvius is quoted only together with Iunius, and he is named first, but his name appears only in reference to the month of April. In reference to the months of May and June, Varro cites Iunius alone. This is quite remarkable, because we know from another passage, in Macrobius,²⁷ that Fulvius did in fact write about the etymology of the two months for which Iunius only is named. Why then did Varro omit Fulvius here? Did Fulvius's interpretation agree with Varro's? If that were the case, by mentioning Fulvius, he could have bolstered his own interpretation. It is more probable that Varro omitted Fulvius's name because he did not want to strengthen the phalanx of his opponents or to emphasize his change of opinion from the position he had earlier expressed in his *Antiquitates rerum humanarum et divinarum*. But why did he cite Iunius instead of the older Fulvius? The simplest explanation is to assume that Varro consulted only the treatise of Iunius Gracchanus (*De potestatibus?*), who in turn quoted Fulvius for his etymologies. Certainly, Iunius quoted Fulvius for the etymology *Aprilis a Venere* and *Februarius a diis inferis*, and probably for the other months, too.²⁸

Cens. 22.9–13 (see fr. 1 *Funaioli* = M. Iunius Gracchanus, fr. 5 *Funaioli*)

Nomina decem mensibus antiquis Romulum fecisse Fulvius et Iunius auctores sunt. et quidem duos primos a parentibus suis nominasse, Martium a

Marte patre, Aprilem ab Aphrodite id est Venere, unde maiores eius oriundi dicebantur; proximos duos a populo: Maium a maioribus natu, Iunium a iunioribus; ceteros ab ordine quo singuli erant: Quintilem usque Decembrem perinde a numero. (10) Varro autem Romanos a Latinis nomina mensum accepisse arbitratus auctores eorum antiquiores quam urbem fuisse satis argute docet. (11) itaque Martium mensem a Marte quidem nominatum credit, non quia Romuli fuerit pater, sed quod gens Latina bellicosa; Aprilem autem non ab Aphrodite, sed ab aperiendo, quod tunc ferme cuncta gignantur et nascendi claustra aperiatur natura; (12) Maium uero non a maioribus, sed a Maia nomen accepisse, quod eo mense tam Romae quam antea in Latio res divina Maiae fit; Iunium quoque a Iunone potius quam iunioribus, quod illo mense maxime Iunoni honores habentur. (13) . . . ceterum Ianuarius et Februarius postea quidem additos, sed nominibus iam ex Latio sumptis: et Ianuarius ab Iano, cui adtributus est, nomen traxisse, Februarius a februo.

Fulvius and Iunius write that Romulus invented the names for the ten old months. And in fact, they say that he named the first two from his parents, March from “Mars the Father”, April from Aphrodite, that is, Venus, from whom his forefathers were said to stem. The following two from the people: May from the “older ones”, June from the “younger ones”; the others from the sequence in which they were: hence Quintilis through December from the number. (10) Varro, however, believes that the names of the month had been taken by the Romans from the Latins, and he argues very cogently that the inventors of them had been older than the city. (11) Therefore, he believes, the month March was, indeed, named from Mars, not because the latter was the father of Romulus, but because the Latin race was bellicose; April, however, is not named from Aphrodite, but from “opening,” because in that period everything grows and nature opens the doors of birth. (12) Maius, in fact, received its name not from the older people, but from Maia, because, just as in Rome, so previously in Latium a sacrifice was performed for Maia in this month. Likewise, June was named from Iuno rather than the younger people, because veneration for Iuno is very important in that month. (13) . . . for the rest, January and February certainly were added later, but the names were taken from Latium, and January took its name from Ianus, to whom it is attributed, February from a purification rite.

This long quotation is necessary to clarify some of my previous remarks. It is obvious that Censorinus cannot have used Varro's *De lingua latina* as his source. Here, Fulvius and Iunius are named as sources for the etymology of all ten months from March to December, and Varro's own interpretations for the month of May and June are given in greater detail than in his own "On the Latin Language." Censorinus's mention of Fulvius and Iunius is also noteworthy in two respects. First, as in Varro's *De lingua latina*, both authors are named together, and no distinction can be seen in their positions. Second, their etymologies are reported only briefly. For example, for the month of February only Varro's interpretation is given in detail.²⁹ Fulvius and Iunius serve only as the background (*auctores sunt*) for the detailed account of the Varronian solutions (*Varro autem . . .*) with which Censorinus seems to be in agreement.

Combining these observations with the preceding discussion, we may arrive at the following conclusions: Censorinus's source for a detailed explanation of the names of the months was Varro's *Antiquitates*. It is unnecessary to assume that Censorinus used Fulvius or Iunius firsthand. As for Censorinus's source, Varro, it is probable that in his *Antiquitates rerum divinarum* he quoted Fulvius only indirectly, via Iunius. We may further note that, in contrast to *De lingua latina*, Varro's discussion of the etymology of the names of the months in the *Antiquitates* did not serve a purely linguistic purpose; rather, it was part of a reconstruction of the origins and history of the Roman calendar. A similar approach can be found in Ovid.³⁰

Cens. 20.2–4 (see fr. 2 Funaioli = M. Iunius Gracchanus, fr. 6 Funaioli)

Annum uertentem Romae Licinius quidem Macer et postea Fenestella statim ab initio duodecim mensum fuisse scripserunt. sed magis Iunio Gracchano et Fulvio et Varroni et Suetonio aliisque credendum, qui decem mensum putarunt fuisse, ut tunc Albanis erat, unde orti Romani. (3) . . . (4) postea siue a Numa, ut ait Fulvius, siue, ut Iunius, a Tarquinio duodecim facti sunt menses et dies CCCLV, quamuis luna duodecim suis mensibus CCCLIII dies uidebatur explere.

Licinius, Macer and later Fenestella wrote that the turning year had twelve months from the very beginning at Rome. But we should rather believe Iunius Gracchanus and Fulvius and Varro and Suetonius and

others, who thought that there were (initially) ten months, as was the case in those times for the people of Alba, from whom the Romans sprang. . . . (4) Later, either by Numa, as Fulvius maintains, or by Tarquinius, as Iunius says, twelve months and 355 days were created, even if the moon seemed to fill only 354 days with its twelve months.

Here, for the first time, a discrepancy between Fulvius and Iunius emerges. The authors are again quoted together, but Censorinus reports that while they agree that originally the Roman year was divided into ten months, Fulvius and Iunius part company when it comes to the question of who first turned to a twelve-month calendar. According to Fulvius, it was Numa; for Iunius, it was Tarquinius. Apart from this difference, however, both Fulvius and Iunius associate the etymological explanation of the names of the months with the genesis of the Roman calendar. A similar connection was seen in the previous passage. Varro is named immediately after these older authors, and this seems to suggest that Varro's *Antiquitates* was Censorinus's direct source. Since Varro most likely used only Iunius as his source, we should conclude that the information about Fulvius's attribution to Numa of the change to the calendar derives from Iunius. Thus we can see that Iunius quoted Fulvius even when he did not agree with him. Consequently, we may infer that he reported Fulvius's ideas, and he reported them correctly, when he was in agreement with him. Hence Iunius's text, which was used by Varro, proves to be a rather reliable source.

Macrob. Sat. 1.12.16–18 (see fr. 1 Funaioli = M. Iunius Gracchanus, fr. 5 Funaioli)

Maium Romulus tertium posuit, de cuius nomine inter auctores lata dissensio est. nam Fulvius Nobilior in fastis, quos in aede Herculis Musarum posuit, Romulum dicit postquam populum in maiores iunioresque diuisit, ut altera pars consilio altera armis rem publicam tueretur, in honorem utriusque partis hunc Maium, sequentem Iunium mensem uocasse. (17) sunt qui hunc mensem ad nostros fastos a Tusculanis transisse commemorent . . . (18) Cingius mensem nominatum putat a Maia.

Romulus put May in the third position. About its name considerable disagreement exists among the authorities. For Fulvius Nobilior, in the

calendar that he put in the temple of Hercules Musarum, says that Romulus—after having divided the people into older and younger, in order that the one part should defend the state by its advice, the other by arms—honouring both parts, named this month May, the following June. (17) Some relate that this month came to our calendar from the Tuscians . . . (18) Cincius believes that the month is named from Maia . . .

The passage quoted above is but a small part of the extended discussion of the names of the months in the *Saturnalia*. For the ten months of the “year of Romulus” Macrobius fills nearly seven printed pages in the Teubner edition, thus providing a rough idea of how much more detailed Varro’s treatment of the Roman calendar in the now lost *Antiquitates* was compared to Varro’s own abridged version in *De lingua latina* or to Censorinus’s summary in *De die natali*. The passage from Macrobius, however, once again brings to the forefront the issue of sources.

In contrast with the texts just discussed, Macrobius provides fairly detailed information about his sources. This conforms to his usual practice. Very often (if not always), Macrobius cites the titles of the books to which he refers. A quotation from the late republican antiquarian Lucius Cincius, which precedes the passage above, is introduced by the following statement: *Cingius in eo libro quem De fastis reliquit*.³¹ We need not assume, however, that Macrobius read all the books he cites. The contrary is probably true: he used many of them only indirectly and cites them, for instance, from quotations by earlier “Buntschriftsteller,” like Gellius. These intermediate sources, however, are never named. It is likely that Macrobius wanted to give the impression that he had directly consulted the texts he cites. Nevertheless, the breadth of Macrobius’s reading remains impressive.³²

With this in mind, let us return to the passage at hand. Macrobius’s remark about Fulvius’s *fasti* makes it clear that this work could have been consulted only in the temple of Hercules Musarum (*nam Fulvius Nobilior in fastis, quos in aede Herculis Musarum posuit*). Hence we can reasonably rule out the possibility that the *fasti* was a book that could be consulted elsewhere. At least this is what the sources used by Macrobius seem to imply, since we can also safely rule out any Macrobian autopsy, seven hundred years after the original publication.

But what was the original source for this information, and how was it transmitted? There is no explicit evidence. The more detailed description of

the *fasti* finds no parallel in our other sources, but the attempt to connect the etymology of the names of the months to historical events—a distinctive feature of Fulvius's *fasti*—appears here as well. In fact, the relationship between etymology and the history of the calendar is here made even more explicit.

Ancient authorities agreed on the etymology of the numeral months and of the month of March. On the names of April, May, June, and February, however, there was disagreement, and for all of these months, as we have seen above in the quote from *De lingua latina*, Varro offered an original interpretation. Since Varro's *Antiquitates rerum humanarum et divinarum* was key for the transmission of Fulvius's text, it would be valuable to isolate Varronian material in the Macrobian presentation, put into the mouth of the speaker Praetextatus.

Unfortunately, the general agreement regarding the etymology of the month of February, said to have been created by Numa, does not help us to separate and identify different traditions.³³ An analysis of the spring months proves to be more fertile. The speaker Praetextatus does not question the tradition that ascribes the ten-month year to Romulus and the twelve-month calendar, with the addition of January and February, to Numa. Accordingly, he credits Romulus with the name of the month of April.³⁴ Yet he does offer multiple theories regarding its etymology. First, he reports a tradition, with its different variants, that connects April to Venus (no specific author is connected with such an interpretation).³⁵ Next, Praetextatus gives an account of the etymology of Cincius, who criticizes the Venus connection by pointing out the lack of important sacrifices to Venus during the month of April, and instead views April as having been derived from *aperire*, "to open," just like Varro: *Cingio etiam Varro consentit, adfirmans*.³⁶ At the end of this passage, just before the passage quoted above, Verrius Flaccus is quoted for a point of detail. The structure of the passage and the manner of its quotation of sources suggest that Macrobius first presents the *communis opinio* and uses Verrius Flaccus and Varro only for their contrary positions. Perhaps Varro is used via Verrius, even though Macrobius did use Varro directly elsewhere, in particular for the history of the calendar. It is possible, therefore, that it was Verrius himself who actually reported that Varro and his younger contemporary Cincius were in agreement on the etymology of the name of the month of April.³⁷

Next, the discussion turns to May and the various etymologies that connect the names of the months to deities venerated in those particular months.

The length of the passage shows the importance given to this kind of discussion in antiquarian literature. Again, the passage reveals Macrobius's typical organization of the material. Priority is given to Fulvius, who provides the most coherent historical interpretation. Next we are introduced to the remaining variants. Some (*sunt qui*) believe the name May to be imported from Tusculum, where Maius was the equivalent of Latin Iuppiter. Cincius believes that the name was from Maia. Both interpretations seem to derive from Varro, for they agree with what Censorinus says about Varro's interpretation of the etymology of May. There follows the explanation of the annalist Calpurnius Piso, who was, we might add, a source frequently used by Varro. It is with Cornelius Labeo that we reach a new historical level of sources, which dominates the rest of the discussion on May.³⁸ The coherence of the presentation, which interweaves different sources, can and probably should be explained most easily by assuming that Macrobius used Verrius Flaccus as his direct source.³⁹

The presentation of the month of June shows a similar pattern. Macrobius begins his discussion by presenting the Fulvian account. Unlike the month of May, where contrasting etymologies are accounted for in lengthy detail, here the etymology that connects June to Iuno is only briefly summarized. The name Cingius appears again and is directly related to an etymology that derives the name of the month from the Latins, while the reference to Praeneste could go back to Verrius Flaccus. Next follows a statement that claims that the *mensis Iunius* was earlier and more correctly called Iunonius (Macrobius here pretends to be quoting from a commentary on the calendar by Nisus, written in the second half of the first century C.E.), and this statement, too, points to Verrius, because this is the interpretation that is dominant in the epitome of Festus.⁴⁰ After this brief summary of the different etymological variants, Macrobius offers what is most relevant for him—that is, the more historically oriented interpretation. He argues for the derivation of the name from Iunius Brutus, because in that month Brutus expelled Tarquinius from Rome and made a *votum* to the goddess Carina.⁴¹

To sum up, references to Fulvius in Macrobius must, in all likelihood, be traced back to Verrius Flaccus or to Varro. Since Varro was Verrius Flaccus's main source, we may assume that Varro is also the source for Verrius's information on Fulvius's *fasti*. As far as the content of the Fulvian *fasti* is concerned, we see that there is an attempt to integrate Romulus's invention of the calendar and his naming of the months with his political and military activities in his role as founder. The Macrobian passage might come close to being an actual quotation of the *fasti* of Fulvius.

Macrob. Sat. 1.13.20–21

Quando autem primum intercalatum sit uarie refertur. et Macer quidem Licinius eius rei originem Romulo adsignat. Antias libro secundo Numam Pompilium sacrorum causa id inuenisse contendit. Iunius Servium Tullium regem primum intercalasse commemorat, a quo et nundinas institutas Varro placet. (21) Tuditanus refert libro tertio Magistratuum decem uiros, qui decem tabulis duas addiderunt, de intercalando populum rogasse. Cassius eosdem scribit auctores. Fuluius autem id egisse M.' Acilium consulem dicit ab urbe condita anno quingentesimo sexagesimo secundo, inito mox bello Aetolico. sed hoc arguit Varro scribendo antiquissimam legem fuisse incisam in columna aerea a L. Pinario et Furio consulibus, cui mensis intercalaris adscribitur. haec de intercalandi principio satis relata sint.

There are different traditions about the first intercalation. Licinius Macer, in fact, assigns the origin of this practice to Romulus. In his second book, Antias maintains that Numa Pompilius invented it for the sake of the sacrificial rites. Iunius relates that the king Servius Tullius intercalated for the first time, the same person by whom the market days were set up according to Varro. (21) In the third book of “The Magistrates”, Tuditanus reports that the Ten Men (*decemviri*), who added two tablets to the ten tables, proposed a law about intercalation to the people. Cassius names the same men as inventors (of intercalation) in his writing. Fulvius, however, says that the consul Manlius Acilius had taken this course of action in the year 562 a.u.c., shortly before the outbreak of the Aetolian War. But Varro argues against this by writing that a very old law was inscribed on a bronze column by the consuls L. Pinarius and Furius, to which the intercalatory month is ascribed. Let this report be sufficient concerning the beginning of intercalation.

It is relatively easy to identify the source for this passage. All the authors named here wrote before the time of Varro, and Varro himself is quoted twice. In the first instance he is mentioned as approving the attribution of the introduction of *nundinae* to Servius. In the second he is presented as the proponent of a counterargument, specifically, an alternative date for the introduction of the intercalary month. It is, therefore, apparent that Macrobius repeats a line of argument that he found in Varro.⁴² Macrobius is content to quote from his source and does not attempt to solve the incongruities he

found in it. For example, how could Romulus invent intercalation if the year of twelve months was introduced by Numa? Nor does Macrobius attempt to clarify his source. From what we can tell from the text and from what we know of Varro's manner of reporting data, Fulvius spoke not of the *first* intercalary law, but merely of a certain intercalary law. This is a new piece of information about Fulvius's text. We will discuss its significance shortly; here we may be content to point out that Iunius Gracchanus is named in the same context, and that he was probably Varro's source for the Fulvian text, as our earlier findings seem to support. We may go even further. It is probable that Macrobius's first mention of Fulvius, which we ascribed to Varro, was ultimately derived from Gracchanus.

We can see that the Gracchan-Varronian line of transmission offers an important contribution to the reconstruction of Fulvius's text. It underlines the historicizing approach toward the calendar that we have already noticed in regard to Fulvius's account of Romulus's contribution to the Roman calendar, when Fulvius attempted to explain the etymology of May and June within a political frame, a type of analysis usually rejected by antiquarians. In this passage, we see how this historicizing approach continues up to Fulvius's own times, as the calendar is presented as an object of *leges* and of political decisions. The mention of the law regarding the intercalary month marks the personal connection between Fulvius and Acilius. That detail also associates changes to the calendar, once again, with political and historical events. In this instance the event with which Acilius's intercalary law is associated is the Aetolian War, which also happens to be the event the Fulvian *fasti* themselves point toward from their position in the middle of a temple filled with booty taken during the same war.

John Lydus De ostentis 16a, p. 47 Wachsmuth

[... ταῦ]τα μὲν οὖν Φούλβιός φ[ησιν, ἐκ τ]ῶν τοῦ Νουμᾶ
ἱ[στορήσας.]

Fulvius says these things, having taken them from the writings of Numa.

It is not necessary to quote the words of Numa, attributed to Fulvius, in full. There is no doubt that this Fulvius is our M. Fulvius Nobilior. Likewise, we can be sure that the inserted quotation of Numa is apocryphal,⁴³ and the

attribution to Fulvius must be regarded as pseudepigraphical. The explanations for divination based on astronomy and natural philosophy offered by Lydus do not form part of the calendar treatises.⁴⁴ On its own the Pythagorizing exposition in the manner of Plato's *Timaeus* is not necessarily anachronistic for the beginning of the second century,⁴⁵ but such reflections are entirely improbable for a Roman author who wrote one hundred years before Cicero, and who witnessed Ennius making the first attempts at Latin philosophical prose.

It was easy, however, to associate Fulvius with the apocryphal writings of Numa; after all, he was known as a philhellene, and he was alive when Numa's literary works were "discovered" in 181.⁴⁶ Thus he could safely be seen as a person who could transmit at least some words from Numa's books, which were in that moment of discovery denounced as "philosophy" and quickly burned.⁴⁷ While historically implausible,⁴⁸ the connection would have its appeal from a later perspective.

This sixth "fragment" thus does not contribute to the reconstruction of Fulvius's *fasti*, but it is very informative about the image of Fulvius in imperial times. Fulvius, whose relationship with Ennius is mentioned in a letter of Symmachus at the end of the fourth century,⁴⁹ was seen as a transmitter of philosophical and historical knowledge on a large scale.⁵⁰

A Commentary?

Fulvius's *fasti* entered the antiquarian tradition only through the work of M. Iunius Gracchanus, who most likely wrote at the end of the second century. In turn, Gracchanus was the source for Varro's *Antiquitates rerum humanarum et divinarum* (general information on the calendar would have been part of the *res humanae*), and it was from here that all knowledge of Fulvius's *fasti* flowed into other antiquarian texts. Varro's treatment of the Roman calendar in *De lingua latina* is but a brief excerpt of his extensive treatment in the *Antiquitates*. My interpretation of Macrobius has already led to the conclusion that these Fulvian *fasti* must have been a wall painting, rather than a commentary in the form of a book. Further, the analysis of the fragments forces us to modify the *communis opinio*.⁵¹ There is no trace of a proper commentary. The central purpose of the Fulvian *fasti* was not to comment on the etymology of the months, an important topic of later commentaries,⁵²

but to give a short history of the Roman calendar that takes the names of the months as indicators of developmental stages.

All the information attributed to Fulvius's *fasti* could be contained in a heading of a few lines similar to ones we find elsewhere.⁵³ The following text does not pretend to be a faithful reconstruction of the original; it is, rather, merely an attempt at a plausible illustration:

*Bello Aetolico confecto fastos posuit M. Fulvius Nobilior cos. cens.
Romulus X menses appellauit: primos in honorem patris proauiaeque; post-
quam populum in maiores iunioresque diuiserat, ut altera pars consilio al-
tera armis rem publicam tueretur, tertium et quartum in honorem utriusque
partis; ceteros a numeris. Numa II additos a Iano et dis inferis. mensis XIII.
lege Acilii cos. anni DLXII interkalatur.*

The consul and censor M. Fulvius Nobilior set up this calendar after the Aetolian War.

Romulus named ten months: the first two in honor of his father and great-grandmother; after having divided the people into older and younger, to ensure that one part should defend the state by advice, the other by arms, he named the third and fourth in honor of both parts; the rest were named by numbers. Numa named the two subsequently added from Ianus and the Gods of the Netherworld. A thirteenth month was intercalated according to a law by the consul Acilius in the year 562.

Such a text cannot be called a commentary. It is a dedication.⁵⁴ It is, however, not a dedication associated with a specifically religious monument, but with a monument that commemorates history.

An Ennian History

Ingo Gildenhard has argued for parallels between the temple project as a whole and Ennius's epic.⁵⁵ This proposed connection is strengthened by my findings. The history contained in Fulvius's "headlines" bears a vague resemblance to Ennius's *Annales*. In Ennius's Trojan-Latin prehistory of the Romans, Venus is acknowledged as the "mother" of Romulus via Aeneas.⁵⁶ Fulvius's Romulus names the month of April after her, his ancestress. In

general, Fulvius's Romulus gives names to the months drawing on the inspiration of genealogy and politics; similarly, Ennius's Romulus gives names that reflect genealogy to the city of Rome itself and to the city's political and social units (i.e., the tribes).⁵⁷ Numa's contributions to the calendar, disputed in the historical or antiquarian discussion of the second century,⁵⁸ are not reflected in the preserved fragments of Ennius, whereas Fulvius credited Numa with the introduction of January and February. Ennius does, however, give a detailed account of Numa as the organizer of Roman cults and religion.⁵⁹ Fulvius's commemoration of the contemporary *lex Acilia* attests to an attempt at covering contemporary history, which should be compared to Ennius's attempts to extend his epic's temporal frame to reach the always new threshold of the present by adding new books to the epic's end. Furthermore, for Ennius, interest in the calendar itself is explicitly attested. His dating of a solar eclipse to the Nones of June in a year not reliably preserved in the manuscript tradition is the earliest testimony for the elimination of lunar months at Rome.⁶⁰ An unplaced fragment assigned 366 days to the year.⁶¹

Fulvius's *fasti* offer further points of comparison. What is entirely new for the tradition of the *fasti*—a type of calendar whose name derives from the information it gave concerning the days suitable for lawsuits, *dies fasti*, according to the intentions of the pontiffs as analyzed in Chapter 7—is the record of *dies natales templorum*.⁶² Certainly, these dates are also associated with specific sacrifices and festivals. But, undeniably, the dedication and construction of temples and the staging of games were usually connected with historical events. Victory in war and the taking of booty were the necessary prelude to the erection of a new temple or the creation of games that might subsequently be repeated.⁶³ The *Annales* likely celebrated the dedication of Fulvius's temple of Hercules Musarum within a similar historical frame. That is to say, both authors describe the erection and/or dedication of temples, not simply as days of religious significance, but as they are connected to historical events.

The third point of contact between the Fulvian and the Ennian text is even more important. Fulvius added a list of consuls and censors to the calendar. This can be deduced from the fragments of the later *Fasti Antiates Maiores*, which derived from the Fulvian *fasti*.⁶⁴ It is highly probable that the painting offered the possibility of making a record of the highest Roman magistrates starting about 173 and going forward. Another section of the display (a third one) probably gave information on earlier magistrates.⁶⁵ Most

likely this was not a complete list of consuls from 509 or 507 or some other date posited as the beginning of the Republic. To assemble such a list was a task for the rest of the second century and most of the first century, resulting in diverging lists and ultimately in the attempt at canonization by the Augustan *Fasti Capitolini*.⁶⁶ Roman historiography prior to the time of Fulvius and Ennius was not annalistic. Neither Fabius Pictor, despite his attempt to create a form of symmetry between historical periods,⁶⁷ nor the other annalists who wrote in Greek seem to have used consular dates as a chronological frame. The first annalist, in this sense of the word, is Ennius himself. It is in the *Annales* that pairs of consuls and iterations of offices appear for the first time in a nondocumentary text: *Quintus pater quartum fit consul*.⁶⁸ And later: *Additur orator Cornelius suaviloquenti / ore Cethegus Marcus Tuditano collega / Marci filius*.⁶⁹

Rationality and Tradition

The censor and the naturalized foreigner, Fulvius and Ennius, were good Romans. The *fasti* are imbued with Romanness, Roman gods, Roman consuls, Roman victories, and Roman history. They are part of a decorative program that commemorates Roman victories over the Aetolians, that is, over Greeks. At the same time, however, the project is utterly "Greek." This holds true not only for the presence of the Greek Muses brought from Ambracia and the Greek conception of Heracles/Hercules as tutelary deity of the arts, but also for the exploitation of writing, which I take to be a key indicator of rationalization. It is of course true that the technique of writing had not been unknown at Rome, but in the second century its use was rapidly spreading to different social contexts and being directed toward different types of communication. It was a new idea for history to be written down rather than narrated orally. Similarly novel was the phenomenon, not just of participating in, but of recording the celebration of festivals and the building of temples, and then having these records not simply displayed on the building, but also available elsewhere. One could claim that this is not exactly the case for the wall painting of the *fasti*. It was tied to a particular place. But we need to keep in mind that the site where this wall painting was displayed was the meeting place of the professional writers in Rome. It was available for copying, and indeed it was copied, as the *Fasti Antiates maiores* demonstrate.

Systematization is the next indicator of rationalization. To write lists that do not contain fixed and codified wisdom but are fluid and can be extended, to aim at completeness, and to arrange material according to a specific principle are all clear indicators of a change in mentality on the part of the members of the local elite at Rome. Such systematization is a sign that by the early second century these Romans were exploring new intellectual possibilities and new venues for organizing knowledge.⁷⁰

The third specific form of rationalization that we can see at work here is the impulse toward historicization. The incipient use of historicization is apparent in aetiological myths. These aetiologies, however, tend to remain anecdotal, as in the use of historical examples in political rhetoric.⁷¹ Ennius's *Annales* replaced anecdotal forms of gentilician memory (whether in the form of inscriptions or of *laudationes funebres*) with a coherent and sequential history. This is what the Fulvian *fasti* did as well, although in this case the means used was not a narrative, but the chronographical form of the calendar.

These are some of the important parallels that can be drawn between Fulvius's *fasti* and Ennius's *Annales*. The differences between the politician and the poet, between the patron and the professional, whose status was that of a client, are, however, also noteworthy. Fulvius did not write poetry, and, in particular, he did not write in the highly artificial and rhythmic language of epic. He wrote prose, hardly more than lists—if it was indeed he who composed these lists. What is important is that he wished his name to be associated with this type of prose composition. In so doing, he simultaneously distanced himself from poetry, which was to remain closely associated with professional practitioners.

I conclude my survey concerning the Fulvian *fasti* with mention of another work of Ennius. In terms of its content, that other Ennian work, the *Euhemerus*, is an important model for the creation of Fulvius's *fasti*, for this work clearly shows just how far historicization could be carried. In the *Euhemerus*, Iuppiter, Rome's highest state god, is given a mortal genealogy and becomes a historical king, whose many local *epicleseis* are merely the result of the gratitude of his hosts and commemoration by his subjects as he wanders from place to place.⁷²

Differences in social status, however, not only were differences in intellectual or technical capability but also affected a work's chances for success and to the history of reception. For more than a century, Ennius's *Euhemerus* did not find a successor; it had to wait for Lucretius. Fulvius's idea became popular long before. His historical combination of calendar and consular lists

decorated a villa at Antium and was available to many Romans in the form of papyrus rolls. Rationality and tradition were not antithetical poles in late republican times, but two options that could be interwoven in different forms. Ennius is part of the beginning of a rapid acceleration of this weaving. Varro, at the end of the period under scrutiny, presents not only a more encyclopedic instance of the inscribing of tradition and antiquarian "documentation," but a highly personal melding of "tradition" and rationality. We turn to him in the next chapter.

Chapter 12

Varro's *tria genera theologiae*: Crossing Antiquarianism and Philosophy

For writers in the Roman Empire, and for Christian apologists, Varro's *Antiquitates rerum divinarum* supplied the canonical description of traditional Roman religion. Quite a number of literary sources for Roman religion point or lead back to Varro, whose books have for the most part not been preserved. But it is not as a source of factual knowledge that Varro is of interest for this study. It is rather Varro's use of the term *theologia*—today a central term in the description of religion—that raises the question of his role in the history of the rationalization of Roman religion and in turning Roman religious practice into knowledge of religion. Thus in analyzing Varronian theology we have to analyze a whole process that leads to a restructuring and systematization of a specific area of a society's knowledge, this last a defining element of what should be called "theology."¹

Starting from a presentation of the general structure of Varronian theology, I shall try to clarify his concept of "civic theology." This leads to a reconstruction of the development of late republican religious discourses and a closer look at an example from the *Antiquitates*.

Three Types of Theology

Godo Lieberg has tried to argue that, prior to Varro, a Greek doxographer of the late second century B.C.E. had already developed the concept of a *theologia tripertita*, or threefold theology.² This thesis has found wide approval, but the term that was coined to describe the concept (and therefore his conceptual history) is not to be found in any ancient source—Tertullian comes

closest in speaking of a *tripertita dispositio*³—nor, frankly, is there any reason to disclaim Marcus Terentius Varro's authorship of the concept. It is this encyclopedist and Roman magistrate, who lived from 116 to 27, to whom the sources give credit, even if we can put the concept also into the mouth of the slightly older *pontifex* P. Mucius Scaevola.

Varro's definition of the three types of theology has survived only by being quoted by a Christian text, in Augustine's *De civitate dei* (6.5) (fr. 7 Cardauns):

Tria genera theologiae . . . esse, id est rationis, quae de diis explicatur, eorumque unum mythicon appellari, alterum physicon, tertium ciuile . . . mythicon appellant, quo maxime utuntur poetae; physicon, quo philosophi; ciuile, quo populi.

There are three types of theology, that is, of reasoning about the gods, Varro said. One of them is called mythical, the second physical, the third civic. They call mythical the kind that is especially used by the poets; physical, that used by philosophers; civic, that used by polities.

Already on the basis of this quotation one can see how much these types are informed by Greek discourses. "Theology" itself is a Greek word. It was only infrequently used, and from Plato onward denoted philosophical thought about the gods.⁴ Aristotle in particular employed the term and its derivatives in his *Metaphysics*, the *philosophia theologike* proper.⁵

The types identified by Augustine can be more precisely defined by using the other Augustinian quotations that form the core of any reconstruction of Varro's *Antiquitates*.⁶ Philosophical thought is characterized by the reductionism of the empirical philosophy of nature. The gods stand for the elements (fr. 23): Iuppiter for instance is the ether, Iuno the air, Neptune water or the sea, and Pluto the earth (fr. 28). The theology of the poets, that is to say, mythology, offers the largest space for speculation and is subject to the least control. At the same time it is closest to ritual (i.e., dramatic productions that are staged within the ritual framework of games only, during the Roman Republic).

It is less easy to define the "theology" of polities or, perhaps, communities of citizens. The term seems to denote the totality of the norms and practices of public and private cult; hence it would signal a normative, not a discursive, theology. It embraces everything that the political unit, or rather

its leading class, thought necessary for a correct cult of the gods, and to keep the *pax deorum*, the “peace with the gods,” at Rome. The *principes civitatis*, the political leaders, are the agents of civic theology, according to a statement given by Varro to Mucius Scaevola;⁷ other fragments name the individual people, hence a city’s citizens, for the same role. As far as content is concerned, this “theology” is rather traditional, comprising rules for rituals as well as rules for religious specialists.

It is quite common to term this body of rules “sacral law,” *Sakralrecht*, but this is not an ancient concept. The Latin phrase *ius divinum* denotes the gods’ disposal of their property. Roman rulings on cults and priests are part of the *ius publicum*, public institutional law. Some other bodies of law do exist, the *ius pontificale* for instance. But this is nothing more than a collective term to describe all regulations concerning the pontiffs—in the same manner that the *ius parietum* comprises all the regulations about walls.⁸ Roman culture did not entertain a unifying concept of religion—as is demonstrated by the *lex Ursonensis* (see Chapter 9) and by the Varronian plurality of theologies.

It is quite natural to suppose that Varro conceived of himself as a theologian, and, even more, as a representative of civic theology. The former is confirmed by Servius in his commentary on the *Aeneid*: he characterizes Varro with the phrase *praecellat in theologia*—“he excelled in theology”; here Varro is compared to Nigidius Figulus.⁹ Varro’s *Antiquitates* were addressed to Caesar the supreme pontiff.¹⁰ The priests are—*pace* fragment 9—especially in need of the body of knowledge conferred by the third type of theology.¹¹

Fragment 2 might stem from the preface to the work:

Se timere ne pereant [scil. dei], non incursu hostili, sed civium negligentia, de qua illos uelut ruina liberari a se (dicit) et in memoria bonorum per eius modi libros recondi atque seruari utiliore cura, quam Metellus de incendio sacra Vestalia et Aeneas de Troiano excidio penates liberasse praedicatur.

that he fears that the gods would vanish, not through hostile attack, but through the negligence of the citizens, from which they would be rescued by him as from a ruin; and by means of such books they would be stored and preserved in the memory of good men, thus deploying a more useful form of care than Metellus, who is said to have rescued the cult items of Vesta from destruction by fire, and Aeneas, who is said to have rescued the household gods from the destruction of Troy.

This quotation offers an explicit comparison of Varro's achievement in writing these books and the achievement of the *pontifex maximus* Caecilius Metellus, who had evacuated the sacred objects from the burning temple of Vesta. The most explicit support for my labeling of Varro as a representative of civic theology is fragment 11, relating the three types of theology to one another:

Ea, quae scribunt poetae, minus esse quam ut populi sequi debeant; quae autem philosophi, plus quam ut ea uulgum scrutari expediat. quae sic abhorrent . . . ut tamen ex utroque genere ad civiles rationes adsumpta sint non pauca. quare quae erunt communia cum populis, una cum civilibus scribemus; e quibus maior societas debet esse nobis cum philosophis quam cum poetis . . . physicos . . . utilitatis causa scripsisse, poetas delectationis.

The matters that the poets write down offer less than what the people need to follow; those matters, however, that the philosophers write down offer more than what it is profitable for the common people to investigate. Despite their hostile relationship, quite a few items from both types have been adapted for civic use. For this reason, we will describe those matters that are common to (all) people together with the civic matters; from which we should be more closely involved with the philosophers than with the poets . . . the natural philosophers wrote for the sake of usefulness, the poets for pleasure.

Augustine criticizes Varro's attempt at establishing *theologia civilis* as a genre of its own and his confusion of the different types. But Varro deliberately advocated the melting of the three for the benefit of civic theology.¹²

Varro, the Civic Theologian

Yet just what is a civic theologian?¹³ The answer is suggested by fragment 2: To save and to conserve, reconstruction and documentation, are the leitmotifs. This conforms to the title: *Antiquitates*, "Antiquities." But now, one starts to become suspicious: Might Varro be no theologian, but a mere antiquarian, who intended to dig out and preserve traditions for public utility?¹⁴ Why, then, all the talk of theology, why philosophical reflections? What are the criteria for civic theology regarded as an intellectual enterprise?

These criteria are not truth or error, but utility and functionality (fr. 8/9). The criteria depend on the place of communication. The theology of poets belongs to the theater, physical theology fits everywhere, and civic theology fits cities, specifically Rome (fr. 10).¹⁵ There is conflict, however. Philosophy contains statements that should be uttered in the classroom rather than in the marketplace. Civic theology might integrate such universalistic contentions, but only insofar as they prove useful (fr. 11). Unfortunately, the masses are prone to fall prey to poetic theology rather than philosophy (fr. 19).¹⁶

How exactly are the different theologies related to one another? Varro accepts that it is not the theologian who defines public utility. This is done by a founding hero, a lawgiver, a *nomothetes*. It is exactly in such a context that we find the first attestation of theology, in Plato's *Republic*. Varro took up this line but opened a new perspective. *Pace* Plato, at the historical start of a society civic and philosophical theology are thought identical. At this point in time the *dei certi et sempiterni*, the eternal gods of definable function, can be found (fr. 32). Varro clarifies the relationship by formulating a thought experiment (fr. 12): "If he were to found a new society, he would instead put in place the gods and their names according to the instructions of nature." But as Varro continues, he stresses the hypothetical character of the statement:¹⁷ "But since he lived among an already ancient people, it was necessary for him to cling to the account of names and surnames received from the ancients, just as it was handed down . . . and he was recording and researching all this in order that the common people would venerate these gods rather than despise them."

Non se illa iudicio suo sequi, quae ciuitatem Romanam instituisse . . . si eam ciuitatem nouam constitueret, ex naturae potius formula deos nominatque eorum se fuisse dedicaturum . . . sed iam quoniam in uetere populo esset, acceptam ab antiquis nominum et cognominum historiam tenere, ut tradita est, debere se . . . et ad eum finem illa scribere ac perscrutari, ut potius eos magis colere quam despiciere uulgius velit.

Varro's presentation of the historical process would have been done in quite a detailed manner and would have given due weight to contingencies.¹⁸ For example, emphasis is placed on imports. The Sabines, from whom Varro himself stemmed, added many a god to the Roman pantheon (fr. 36). Varro exemplifies the typical late republican Roman concept of Rome as a result of ethnic syntheses. But quite banal events could have lasting consequences:

Once upon a time, Iuppiter and Summanus were equivalent gods, one directing lightning by day, the other by night. Yet when only Iuppiter received a large temple building, the other god, Summanus, swiftly fell into oblivion (fr. 42).

Yet the reconstruction of Varronian thought is even more complex. To the philosophers, the practitioners of the *genus physicon*, Varro attributes the task of clarifying whether particular gods were eternal or came into being in history (thus fr. 8). Such being the case, historical research is necessarily part of philosophy—we should not forget that Varro was a reader of Ennius's *Euhemerus*.¹⁹ The etymological method used to clarify the character of particular deities belongs to the realm of philosophy, too.²⁰ Thus the differences among the types of theology are further obscured. What, then, is the status of the model of three types of theological thinking, if it turns out to be without importance for the reconstruction at which it is aimed? First and foremost, the model seems to offer an instrument of justification, or even polemic: The poets, Varro said, offer less, the philosophers more, than what is needed by the peoples (fr. 11). Was this conclusion worth the theoretical effort of formulating the model?

Roman Theology of the Late Republic

Allow me to address that question by posing another. What are the pragmatics of the theory? To answer this question I must again turn to the more general historical problem of the relationship between Roman cult and philosophical thinking on religion as delineated at the end of the previous chapter. The latter was seen by the Romans as a thoroughly Greek enterprise, the attempt to systematically clarify and explain questions that relate to our existence as such. Why did the Romans take an interest in such a form of religious discourse? The answer has to be sought in the history of the third and second centuries, in the—primarily military—confrontation with a culture judged in many aspects as attractive and even superior: Greco-Hellenistic culture (leaving other encounters, with Egyptian culture and religion for instance, aside for the sake of the argument). I will not review the long debate here but will focus on a few aspects. For the purpose of my argument it is sufficient to treat “Hellenization” as a background process to the religious developments highlighted here. By concentrating on the latter I hope to offer a more nuanced alternative to the application of the umbrella term.

The Romans—again a problematic generalization—felt forced to take a position, to attribute a new place to themselves and others within a world that their own imperialist action had enlarged. They felt invited to participate in those cultures. A number of areas presented no problems. Greek religious and honorific sculpture, decontextualized as “art,” was used as domestic ornament, thereby opening up a new field of aristocratic competition.²¹ Starting in the second century, Roman generals boasted complete libraries taken as booty. In fact, Greco-Italian sculpture, architecture, and drama had been present before. Yet the sharpening social differentiation due to prolonged warfare and successful expansion singled out more and more areas of Hellenistic living, the imitation of which could enable Roman *nobiles* to stand out from their peers and the general population.²² Emulation was not directed primarily toward the Greeks, but toward their fellow Romans. When Roman literature encountered explicit competition with its Greek counterparts in the first century, these counterparts had been dead for centuries or even half a millennium, were Hellenistic and occasionally archaic poets, and the language of the competition was Latin—of course.²³

Rome had achieved dominance on a far greater scale than ever before. The world dominated was close to universal, and it presented a host of divergent geographical, historical, and political concepts of order. This situation demanded concepts and arguments that had not been produced by the urban-centered Roman tradition. The intensified import of foreign cults from the whole Mediterranean (e.g., Cybele and Mater Magna)²⁴—that is, the attempt to create a symbolic presence of the whole world at Rome—did not offer a sufficient solution.²⁵

The presence of Greek (always including “Greater Greece”²⁶) philosophy—in both textual and personal form—heightened the pressure and offered relief at the same time.²⁷ Its arguments claimed to be universal; that universality had been sharpened by the size and diversity of the Hellenistic world, which had had to deal for centuries with the problems the Romans now encountered.²⁸ Another factor may have contributed to the universal quality of Greek philosophy. The authors of philosophical texts themselves had frequently been marginalized “intellectuals,” people on the margins of the Greek world, often outside of the political centers, and exiles.²⁹ Indeed, the processes are interrelated. The Romans’ subjugation of the larger political units of the Hellenistic world furthered the formulation of a translocal Greek identity; the Greek renaissance in forms such as (neo-)Atticism was a product of a joint Greco-Roman process of value formation.³⁰ Greek concepts

quickly, though not without difficulty and resistance,³¹ penetrated Roman discourses.³² Again I would like to stress that these discourses—even if in the Greek language—were discourses among Romans; only occasionally might they be used apologetically against representatives of conquered Greek communities.³³

The process has been described for politics, philosophy, grammar, and rhetoric in some detail.³⁴ The writings of Cicero are a milestone. Cicero combines the comprehensive representation of Greek schools of thought with a reformulation of the ethics of the Roman aristocracy, thus even transcending the reflective elements³⁵ of the concept of *mos*, as can be seen in *De officiis*. After Cicero, it is Rome that functions as the center of philosophical debate in the Roman Empire.

There is no description of the process focusing on religion. As I have demonstrated, accelerated social change made traditions “liquid” and precarious. To secure, to fix, traditions was the aim of the nobility during the second century, not to continue the massive innovations of the third and early second centuries, with all the new gods, cults, and priests of those ages. This attempt at stabilization is visible *inter alia* in the policy of temple building. The import of new gods is clearly curtailed during the second century.

With regard to writing, two courses of action were followed. The first—and dominant³⁶—was the development of so-called antiquarian literature. Social and ritual practices of different public areas were collected and systematized in a preliminary manner. Thereby tradition was secured by writing and rationalization.³⁷ I would like to stress anew that the degree and relative pace of systematization could vary widely between areas.³⁸ Whereas historiography had started already by the end of the third century, texts on the calendar or priesthoods began to be produced infrequently in the middle of the second century, and more regularly only during the first century.

The second course of action was related to philosophical argumentation. Neither the forms nor the contents of Greek philosophy were taken over in a sweeping manner. Obviously Greek philosophy of nature did not supply an adequate description or justification—and hence means of preservation—of traditional religious practices. Thus the solution required was the development of a theory of these practices that gave theoretical status to practice itself. It was Varro who realized this. The theory of practice is the *theologia civilis*. Its theoretical status is ensured by formulating civic theology as an indispensable element of a threefold theology. Varro reorganized different types of theology in Greek debates and polemics³⁹ into a structure of three

elements. “Civic theology” absorbed the Greek concepts of “popular theology” and “theology of the *nomothetai*,” but in Varro its contents are actual rituals. Thus traditional religious practice was summarized and dignified as an independent form of “theology,” that is to say, a theoretical enterprise. The contingencies of middle-Italian cultic practices were given the same status as Greek and Roman poetry and philosophy of nature.

Varro thus legitimated the Roman wish to cling to *mos maiorum*, tradition, within the universalistic framework of Greek philosophy (which is not to be confused with the practices of Greek cities!). Tradition, *mos*, is defined by Varro as “the consensus of those living in the same place, a consensus that produces familiarity by long-standing practice.”⁴⁰ This definition, reproduced in Servius, illustrates how Varro transformed Greek universalism. It is permanent consent within a particular communicative community—a community, by the way, that could be envisaged as a specific social group, such as the nobility—that constitutes what is right, right in a particular place and in a particular history, yet universalistic nevertheless, neither ethnically⁴¹ nor genetically restricted. Neither particular peoples nor the beginnings have lasting prerogatives. The task of producing such a consensus now, in the city of Rome, might even be helped by Greek philosophy, Varro suggests. The same consent, however, and its traditions form the limits of this philosophy.

Civic Theology in Practice

Could all these theses about the interests of Varro, about the distortion of religious practices by writing and systematization, be proven? After having paid attention almost exclusively to the fragments of the introductory first book of the *Antiquitates rerum divinarum*, I should like to offer at least a cursory analysis of those fragments that—following the plausible reconstructions of Agahd as well as Cardauns—form the bulk of the Augustinian quotations.⁴² They offer collections of gods that relate to particular areas of human life. What now appear to be mere lists probably represented the organizing structure of a much more detailed account in the Varronian original, including historical details and argumentation.⁴³ It is important to point out that similar material, although in a more summary form, was already to be found in one of the most ancient antiquarians, Fabius Pictor, who wrote before the middle of the second century. The following quotation is a good example:

Fabius Pictor hos deos enumerat quos inuocat flamen sacrum Cereale faciens Telluri et Cereri: Veruactorem, Redaratorem, Inporcitorem; Insitorem, Obaratorem, Occatorem, Sarritorem, Subruncinatorem; Messorem, Conuectorem, Conditorem, Promitorem.

Fabius Pictor lists the following gods who are invoked by the *flamen* when he performs the Ceres sacrifice for Tellus and Ceres: the Field-sweeper, the One Who Plows Again, the Furrowmaker, the Sower, the Overplougher, the Harrower, the Hoe-worker, the Weeder, the Cutter, the Collector, the Storer, the One Who Brings Forth Stored Grain.⁴⁴

It is Varro's intention to offer the *di certi*, the "certain deities," whose function is known, to his co-citizens by explaining their history; furthermore, he tries to find out about their functions as precisely as possible, in order to make these deities usable for invocations. This already indicates the modifying approach of Varro, as does the term *di certi*. Indeed, the term is a Varronian coinage.⁴⁵ It demonstrates that Varro is not a mere collector of religious data and folklore. As the term points to a functional classification of the gods, it implies a reductionistic approach, reducing gods to their functions.⁴⁶

I can present the texts only in a very selective manner. For the process of procreation, from conception to caring for the newborn, Varro names the following gods:⁴⁷ Ianus clears the way for the semen, Deus Consevius takes care of the insemination, Saturnus of the semen itself. Liber permits the man to release semen during coitus, while Libera does the same for the woman, who is credited by Varro with contributing semen too. Fluvonia feeds the child in the uterus. If the sequence in Augustine is correct, Dea Mena, who presides over menstruation, would redirect the monthly bleeding to the growth of the fetus.⁴⁸ Alemona cares for the bringing up of the child in the uterus. Vitumnus furthers the vital, Seninus the sensual, powers of the fetus. Three deities of fate take care of the right time of birth, namely during the ninth or tenth month; the first is called Parca, while the latter two, unsurprisingly, are known as Nona and Decima. In the shape of Diespater, Iuppiter brings the child to daylight, while Lucina brings it to the light. The etymological relationship can hardly be missed, even in a translation. During childbirth the cult of Lucina and Diana is maintained. The following week, a table with offerings to Iuno is set up. At the end of the week, probably on the *dies lustricus*,⁴⁹ one must invoke the Fata Scribunda, the deities of fate, who write down names and the like.

We have not yet finished with giving birth. If the well-argued, though far from certain, sequence of Cardauns's edition can be trusted, we return to the situation of birth.⁵⁰ A woman delivering for the first time will do so by candlelight, perhaps due to prolonged labor. Hence Candelifera is important. Two Carmentes, Postverta and Prorsa, care for the head-up or head-down position of the child to be born, and afterward—as Carmentes—prophecy to the newborn. We do not know what Fortuna did directly afterward. Ops showers the newborn laid down on the earth with presents. The deus Vaticanus is concerned not with Catholic baptism, but with the first utterances of the child: *va, va*. There are deities for the next stages of speaking, perhaps active only later: Aius, Farinus, and Locutius. A god Fabulinus is explicitly mentioned for the first correct speech.⁵¹ Dea Levana helps the father to “levy” (lift up) the child from the earth, thereby declaring his fatherhood. The role of Albana is not known. Maybe—but this is only my speculation—she whitens the father's face when he opens a diaper for the first time.

Three deities protect the mother: Intercidona, Pilumnus, and Deverra, speaking names as far as the symbolic activities of the three men are concerned, who, *pace* Varro, act as guardians against Silvanus. Cunina, then, protects the cradle. Diva Rumina fills the breast with milk; Diva Potina and Diva Educa care for drinking and eating.⁵² The list is continued by deities that care for the child's standing, leaving and returning, mental health, and so forth. Numeria teaches it how to count.⁵³

This is not the only sequence in Varro. The group of the nuptial deities, *di nuptiales* or *coniugales*,⁵⁴ care for anything from the gifts the bridegroom has to present up to details of sexual intercourse, position, and defloration. Augustine's sarcasm revels in the names⁵⁵ but drops in details.

What is common to the lists?⁵⁶ They are organized around risky human action. There might be rituals at some points, but they seem to be absent in many instances. The theological aspects are much more prominent than any ritual details. Far from just documenting changing practices, antiquarian literature changes them itself. Whatever would have been the prayer of the *flamen*, it is reduced to lists of deities in Fabius Pictor. These lists do not offer a unified theory of action; they abstain from abstraction as much as possible. Yet they attest to a reflection that dissects complex actions and processes into minimal parts; it atomizes.⁵⁷ I would not deny the possibility of self-amused playing around.⁵⁸ At the core of the matter, however, the author tries to concentrate on risky situations, situations that offer alternative courses of action or events.

Responsibility is credited to the gods, not the humans.⁵⁹ In part, the gods have things to do—Diespiter for example, who brings the day.⁶⁰ Yet it is important to pay close attention to the wording, even if the text might be distorted by its quotation. The relation of a deity and its realm seems to be its own area of reflection. *Praeesse*, to preside, is the most frequent term.⁶¹ Alternatively, the nouns used seem to be part of Varro's vocabulary: there are *officia* and *munera*, jobs and duties, of the gods.⁶² The opening of book 1 features other terms: power, ability, magisterial force—*potestas*.⁶³

The relationship of a deity to its area of competence is formulated on the model of public rule—the only form of public administration known to the Roman Republic. If that is true, it is legitimate to point to parallels: the activities ascribed to that host of deities parallel the Roman concept of public power. The power of a magistrate is not positively defined, as a set of specific competences, but instead as basically unlimited power, which is restricted in practice by collegiality, short periods of officeholding, and possibilities of appeal against decision to one's dislike. Likewise the power of the gods: their plurality restricts their areas of competence temporally as well as collegially. In a number of cases, possible concurrences remain without a solution by ranking: Nona and Decima, Postverta and Prorsa offer examples of such collegiality.⁶⁴

The consequences of this approach can be demonstrated with another example, taken from fragment III Cardauns, which is quoted by Augustine in his *De civitate dei*⁶⁵ and obviously formed part of Book 14 "About those deities whose functions could be ascertained," *De dis certis*:

Mulieri fetae post partum tres deos custodes (commemorat) adhiberi, ne Silvanus deus per noctem ingrediatur et vexet, eorumque custodum significandorum causa tres homines noctu circuire limina domus et primo limen secure ferire, postea pilo, tertio deuerrere scopis, ut his datis culturae signis deus Silvanus prohibeatur intrare, quod neque arbores caeduntur ac putantur sine ferro, neque far conficitur sine pilo, neque fruges coaceruantur sine scopis; ab his autem tribus rebus tres nuncupatos deos, Intercidonam a securis intercisione, Pilumnum a pilo, Deuerram ab scopis, quibus diis custodibus contra uim dei Silvani feta conseruaretur.

(He reports that) three custodian deities were called for the woman after her giving birth, in order to prevent the deity Silvanus from entering by night and tormenting her. In order to signify (the presence of) these

three custodians, by night three men surround the house and, first, beat the threshold with an axe, secondly, beat it with a pestle, and thirdly, sweep it with a broom, in order that, by giving these signs of cultivation, the deity Silvanus should be prevented from entering, because neither can trees be cut down and pruned without iron, nor can flour be prepared without a pestle, nor can grains be gathered together without a broom. From these three things the gods take their names: Intercidona . . . Pilumnus . . . Deverra.

This text is usually read as a description of a domestic ritual, which might have been in danger of being lost had Varro not preserved it. But this interpretation ignores the historical context as sketched in Chapter 10. While Cicero concentrated on translating Greek philosophy into Latin and making it socially acceptable, Varro went further, justifying traditional Roman practices by developing a theory of their practice that gave it theoretical status, and therefore a higher dignity. This seemingly ethnographically documented ritual, in its explicit rationality, its restriction to etymologically relevant details, and its precise functional definitions of gods, offers a striking example. It is as much a systematization as are the lists⁶⁶ of areas of competence of specific gods reviewed before. It should not be read as instructions for a performance,⁶⁷ even if such an (intended) reading would help the original reader to overcome the problem of decontextualization of inscriptured religious knowledge.⁶⁸

To sum up: Varro's *Antiquitates* presents a seemingly innocent religious context that in fact displays reflections about power. In the activity of the antiquarian, civic theology does not remain a mere formality but gains a particular profile—a profile, however, that is specifically Roman in content, rather than being philosophical.

Conclusion: Systematization by Antiquarianism

In looking for the theologian, Varro and his *Antiquitates rerum divinarum* proffered the antiquarian.⁶⁹ This conforms entirely to Varro's reception in antiquity and later on. The Varronian model of the *tria genera theologiae* did not have any lasting impact.⁷⁰ Nevertheless, Varro was read and quoted widely. In medieval and modern times, this is due to Varro's most diligent adversary, Augustine, whose *De civitate dei* was more widely circulated than

most other nonbiblical texts. We know of more than two hundred manuscripts before 1500 and several early printings. Augustine, of course, used Varro because the latter was famous for his richness of information.⁷¹ It is Varro who forms the fundamental source of information for all the antiquarians of the empire. It is his image of late republican religion that to a large extent informs our own even today.⁷²

Varro could not be called a theologian. He did not produce philosophical reflections on Roman material, nor did he provide the Greek philosophy of Roman religion. In the following chapter we shall look for this in Cicero instead, with his complete transference of Greek philosophy into Latin, the results of which turn out to be thoroughly inspired by his Roman upper-class outlook. But Varro stands for an alternative that offers another form of systematization of social and religious practices: antiquarian literature, even dignified by Varro as theoretical, as a theological enterprise. This antiquarianism is also an answer to accelerated social change, and it is even more successful and more widespread than pure Greek philosophy. It is by combining both approaches that Varro demonstrates the applicability and at the same time the limits of the application of a universal rationality to traditional urban religion. The availability of tradition in the form of historical narratives and systematized handbooks is a precondition for the large-scale invention of rituals that characterizes the Augustan period, from the fetial rites and the closing of the temple of Janus to the secular games of 17 B.C.E.⁷³

Chapter 13

Cicero's Discourse on Religion

Throughout this book, and in particular in Chapter 12, Cicero has been looming in the background. While the whole process—or rather the bundle of processes—analyzed so far was decisively informed by the (or some) Romans' reaction to Greek rational thought, Cicero must be given pride of place. Toward the end of his life, motivated by the death of his daughter Tullia as well as by his experience of political silencing under Caesar's dictatorship, Cicero embarked on the project of providing a systematic account of Greek philosophy in the Latin language. He completed this endeavor in less than two years, counting from the (lost) *Consolatio*, directed toward himself, in February 45 to November 44, when he stopped working on *De officiis*. According to his own exposition in the beginning of the second book of *De divinatione* he stressed both the systematic and the cultural aspects of his enterprise: the Latin language opened up and commended philosophy, in particular Cicero's brand of Academic-skeptical philosophy, to the Romans.¹ What the history of philosophy has for centuries viewed as the most comprehensive account of, and hence an invaluable source for, Greek Hellenistic philosophy, also represents a major landmark in Greco-Roman history in terms of acculturation. Professional Greek-style philosophy, with Cicero, became an accepted field of Roman senatorial activities and was presented as such.²

Cicero's late writings are of even greater importance for the history of the rationalization of religion. In a seminal article, Mary Beard has stressed "that the importance of *De Divinatione* for the historian of religion lies not in the evidence it provides for the supposed scepticism of the Roman élite in the late Republic, but in its position as a specifically religious treatise; for as such it represents an important stage of cultural development at Rome—the definition of 'religion,' for the first time, as an independent subject of discourse."³ In view of the conclusions reached in previous chapters in this

book, Beard's statement needs serious adjustments with regard to temporal priority and the necessary qualification of the discourse as philosophical, as distinct from antiquarian. Even the use of the term "independent" requires qualification. Cicero's treatment of the gods and divination is embedded in an encyclopedic project, just as Varro's *Antiquitates rerum divinarum* is the sequel to a series of books dealing with *Antiquitates rerum humanarum*. Finally, the word "religion" also needs quotation marks—it is even less clear in Cicero's case than in Varro's that any equivalent of our contemporary notion of "religion" is being employed. Yet Beard is right in stressing that something new did happen in Roman culture in these treatises. It will be our task in this chapter to define more clearly what Cicero achieved and how it relates to the process of rationalization delineated so far.

From *On the Laws* to *On the Nature of the Gods*

As early as the 50s, Cicero had substantially addressed religion in his second book *De legibus* (On the Laws), a work obviously intended as an expansion of his six books *De re publica*, which were published shortly before he started his period of service as governor of Cilicia in May 51. *De legibus* was probably drafted at the same time but not published.⁴ The entire second book, that is to say, the first series of positive regulations, is devoted to religion. Following this, in the third book, the dialogue's character Marcus addresses questions of power and legitimate rule in the form of magistracies and procedures, as well as legislation. For the present analysis it is not so much the content of *De legibus* that is of interest, but the argumentative framework and epistemological status of the discussion therein.

Following a Stoic line of argumentation (the speaker explicitly rejects the destructive effects of the New Academy),⁵ Marcus establishes the fundamentals in the first book: the fundamental *lex*, prior to every written law and the *iura civilia* of the peoples (I.17), is a consequence of *natura*, and to be derived from nature by means of *ratio*, as given by and related to *divina mens*, the will of the immortal gods and the highest god in particular (I.21ff.). The sharing of *ratio* constitutes a community (*societas*) of men and gods that is to be understood as universal (I.23):

Parent autem huic caelesti discriptioni mentique diuinae et praepotenti deo, ut iam uniuersus hic mundus una ciuitas communis deorum atque hominum existimanda.

But as a matter of fact they do obey this celestial system, the divine mind, and the God of transcendent power. Hence we must now conceive of this whole universe as one commonwealth, of which both gods and men are members. (trans. C. W. Keyes, Loeb Library)

Justice can be maintained only by following nature, a point that is rhetorically argued by appealing to the virtues of liberality, love of one's native land, piety, and gratitude for good services done by others.⁶ Clearly, Cicero is here arguing on the basis of an aristocratic ethos, a necessity if he was to find acceptance for his concept of "natural law."⁷ The basis for the *caerimoniae* and *religiones* that—one has to suppose—uphold the community of men and gods is the same (1.43 and 60). In the latter passage, *cultus deorum* and *pura religio* are treated as synonyms for the former pairing. The *lex* in question is eternal, not subject to votes, and is directly equated with the right reasoning (*ratio recta*) of the "highest Iuppiter" (2.8 and 10). In a way, concrete laws are laws only in an analogous sense, but they are nonetheless the basis for *iura* and justice (2.11).

In order to grasp Cicero's concept of *religio* and the importance of this concept for the project of *De legibus*, it is necessary to realize that the processes of lawgiving in books 2 and 3 are parallel. The sequences of the laws influence each other. An important hint is given in 2.15, which has been overlooked by previous scholarship:

Sit igitur hoc iam a principio persuasum ciuibus, dominos esse omnium rerum ac moderatores deos, eaque, quae gerantur, eorum geri iudicio ac numine, eosdemque optime de genere hominum mereri, et qualis quisque sit, quid agat, quid in se admittat, qua mente, qua pietate colat religiones, intueri, piorumque et impiorum habere rationem.

Therefore let the citizens be persuaded of this at the outset, that the gods are lords and managers of all things, and whatever happens happens by their judgment and will; that they have treated the human race very well; that they observe what sort of human being each person is, what each does, what each permits him- or herself, in what state of mind and with what sort of piety each observes religious customs; and that they keep account of the good and the wicked. (trans. J. Zetzel, Cambridge, 1999, with minor modifications)

This is declared to be the introduction to the whole law (2.16), but in fact it is parallel to an introductory passage in 3.2–5 and is as specific to *religio* as the latter is specific to *magistratus* (3.3):

Nihil porro tam aptum est ad ius condicionemque naturae (quod cum dico, legem a me dici intellegi volo) quam imperium, sine quo nec domus ulla nec ciuitas nec gens nec hominum uniuersum genus stare, nec rerum natura omnis nec ipse mundus potest. nam et hic deo paret, et huic oboediunt maria terraeque, et hominum uita iussis supremæ legis obtemperat.

There is nothing so consonant with the justice and structure of nature—and when I say that, I want you to understand that I am speaking of the law—as the power of command, without which no home or state or nation or the whole race of humankind can survive, nor can nature or the world itself. The world obeys god, and land and sea obey the world, and human life follows the commands of the supreme law. (trans. Zetzel, modified)

The existence and rule of the gods is as fundamental to “religion” as the naturalness of rule is to the power structure of society. The openings of the archaizing texts of the individual regulations, too, are strictly parallel.⁸ “Let them approach the gods in purity, let them display piety, let them remove luxury. If anyone behaves otherwise, the god himself will enforce the law” (2.19: *Ad diuos adeunto caste, pietatem adhibento, opes amouento. qui secus faxit, deus ipse uindex erit*) compares directly to “Let the powers be just, and let the citizens obey them decently and without refusal. Let the magistrate check the disobedient and harmful citizen by fine, chains or whipping” (3.6, trsl. Zetzel: *Iusta imperia sunt, isque ciues modeste ac sine recusatione parento. magistratus nec oboedientem et noxium ciuem multa uinculis uerberibusve coercent*). Given the naturalness of superior powers, the mode of access to superiors is an obvious starting point. Other items are less obvious but can be explained as consequences of the intended parallelism. This holds true for the punishing force of the gods as well as for the qualification of obedience in the face of magistrates.

It is difficult to determine the range of the principle of parallelism; an internal logic of the subject treated or associations of key terms might swiftly begin to inform the sequence of topics treated. However, the awkward sequence at the beginning of the section on religion⁹ is more easily understood

as an attempt at parallel structure. An understandable internal logic of the regulations on magistrates moves from the principle of obedience to the problem of appeal (*provocatio*) and the division of power among the magistrates (3.6), including the problem of extraurban rule (*militiae*). A desire for a similar sequence could explain the sequence of topics in the opening of the laws for religion: already in the third sentence the problem of “separate gods” is introduced, and a regulation of extraurban sanctuaries and a classification of gods—similar to the ensuing list of different magistrates—follows (2.19). Conversely, to begin the list of magistrates with those magistrates who deal with festivals and temples (each given pride of place among the fields of activity, 3.7) obviously takes up the structure of the regulation of religion, now addressing annual festivals (*sollemnia* is the key term in both cases). The result is problematic. Mapping religion to the model of an administrative hierarchy gives an importance to the diversity of gods and religious options that Cicero in the end is not able to neutralize, and thus leads to contradictions. Cicero clearly falls into the trap of any narrow politico-functional definition of religion that does not take into account the actual religious pluralism—in terms of religious diversity as grades of religious engagement—within the society for which a religion’s integrative force is being postulated; hence he is unable to account for the specificity of specific religious practices or beliefs.¹⁰

Cicero, however, does not deal with “religion.” True, *religio* is a key term and employed in a very general sense. Quintus, Cicero’s brother, in his role as a second participant in the dialogue “On the Laws,” asks for an exposition of *leges de religione* (2.17); Atticus, the third interlocutor, concedes that dealing with the haruspices is an indisputable part of a speech on religion (*omnis haec in religione uersatur oratio*, 2.34); and Marcus himself at the end of the second book summarizes his achievement as *constituta religione* (2.69). Yet the plural is synonymous with the singular. The same Marcus states that he has fully exposed *religionum locum* (2.69), while Atticus summarizes the ruling proposed as *constitutio religionum* (2.23) and looks back on the second book as *de religionum lege* (3.1; in 3.48 again the singular), taking up the reference to many different “religions” throughout the dialogue. *Religio*, as a field of human culture arising out of necessary gratefulness toward the gods and the need to stay in contact with them, is made up of many different “scruples.” The existence of the gods, or, more precisely, the belief that the gods care about humans, is the precondition of *religio*, not part of it. Marcus’s paragraphs regulate human behavior; they make no attempt to systematize religious beliefs. We will return to this term later on.

Cicero, we can summarize so far, proposes rules for religious practices in book 2, as far as it is possible, on the blueprint of his “constitution” discussed in book 3. This probably explains the dominance of rules pertaining to priest-hoods, of which he also claims to give a complete list (2.32)—something not done for the discussion of gods or rituals. Such a procedure conforms to what was done a decade later by the authors of the *lex Ursonensis*, who, as we saw in Chapter 11, inserted “religion” at convenient, but incoherent places. It conforms likewise to the practice of Varro, whose “Divine Antiquities” were structured on the blueprint of the “Human Antiquities,” treating men, places, times, and objects—with only the last books on the gods manifesting an exception to that rule.¹¹

But why did Cicero treat religion at all? Of course, “theological” reasoning is part of his Stoic attempt at defining natural law, or, in his own words, the “nature of law” (2.8). This fundamental argument is, however, not the end in itself, but—rivaling Plato—the starting point for an at least basic law code. The problem Cicero has to solve is to bridge the gap between his universalistic starting point and a code that is so traditional as to integrate as much Roman legal tradition as possible.¹² Atticus’s assertion that he is happy that Roman regulations are brought into accordance with nature (2.62) is an isolated, not a final evaluative statement. Procedurally, the contingency of the actual rules is indicated by reference to voting procedures and by framing what might be called (following Plato’s model) “text and commentary” as “law proposal and supporting speech.”¹³ But the very Roman terminology of the section on the magistrates would make the whole proposal look very parochial, even if the fiction of its difference from the contemporary Roman polity is maintained.¹⁴ Here, religion has much more potential for raising a claim to universality, which is argued for in an exemplary manner in dealing with Greek mysteries: *non enim populo Romano sed omnibus bonis firmisque populis leges damus* (2.35)—a phrase that deftly neglects to address the question of to whom that might actually pertain.¹⁵

This is not the place to analyze in detail the regulations proposed by Marcus and consensually accepted by his addressees. Suffice it to say that his arguments draw on the antiquity of traditions, historical success (for example in matters of divination),¹⁶ and—often introduced in the form of rhetorical questions—supposedly self-evident standards of the contemporary Roman elite. Plato is not infrequently quoted.¹⁷ Whereas Cicero could draw on earlier Roman treatises “De magistratibus” and “De potestatibus,” which certainly could have been used as sources for the extant earlier and lost later

parts of the third book, we do not know of any comparable “De religione” for the second book.¹⁸ As has been stated for earlier authors, too, Cicero does argue about religious practices and attempts at systematization, but the standards are not of the same type of rationality as his fundamental reflection on the nature of law. “In practice, then,” as Andrew Dyck summarizes the lawgiving part of book 3, “Cicero’s ‘philosophical’ approach to the subject amounts to the superimposition of a hortatory/moralizing element upon a description of functions.”¹⁹ This approach is in accordance with earlier practices in dealing with religion, namely formulating laws that try to define the place of religious practices and specialists within the increasingly denser web of political and administrative regulations, and attempting to do so without producing a clash with established, sanctioned practice. Both in traditional Roman law and in Cicero, the formulation of norms is not deductive, but rather intuitive, and remains casuistic.²⁰ The structure of the dialogue reminds us (as does Livy’s account of the *lex Ogulnia* of 300)²¹ of the processes of communication behind those republican laws and regulations that were analyzed earlier. Laws had to be argued, but they were carried through in the legislative bodies by rhetorical victory, not by cogent logic.²² A few years later, Cicero changed that approach toward religion, turning from the nature of law to the nature of the gods.

Religion Within Systematic Philosophy

As mentioned above, in early 45 Cicero sat down to work on an introduction to and comprehensive overview of that type of *sapientia* that the Greeks called philosophy. The (lost) *Hortensius* was followed by a heavily reworked epistemological treatise (*Academica*) and the five books of moral philosophy known as *De finibus*, and the *Tusculanae disputationes*, which addressed the same topic. The foreword of the second book of *De divinatione* (2.1) is our best clue to the chronology and intended relationship of these various works. From it we learn that *De divinatione* was intended to supplement the three books of *De natura deorum* (begun by August 45)²³ and was itself supplemented by *De fato* (44), of which only the first part is preserved. Contemporaneously with the completion of *De divinatione*, Cicero wrote two shorter treatises, *Cato de senectute* and *Laelius de amicitia*, and then finished the philosophical series with *De officiis*, again addressing ethical questions, by the end of 44.

In comparison to his earlier philosophical works, Cicero now held a clear skeptical position in the tradition of the New Academy, although with modifications.²⁴ And here arise the two problems that have informed most of the scholarship on the two longer works, *De natura deorum* and *De divinatione*: First, how should we interpret the end of *On the Nature of the Gods*, where the authorial voice of Marcus, a marginal character throughout the dialogue, found more probability in the Stoic position expounded by Balbus than in the lengthy critique by the pontiff and Academic Cotta? Is this a dogmatic retreat from a skeptical position, or does it merely illustrate the freedom of choice of a real skeptic (even against members of his own school)? And second, how should we interpret the open end of the dialogue of the brothers Quintus and Marcus, where Marcus fiercely criticizes the Stoic position as expounded in book 1? The answers to these questions necessarily inform our image of Cicero's (possibly) representative outlook on religion. In a way, the terms of biographical interpretation—identifying Cicero as either a believer or a cynical skeptic—have not changed for more than a century. How are these problems to be solved?

As a first step, we must clarify the relationship of the philosophical project presented in *De natura deorum* to "religion." Once again, concentrating on the term *religio* proves helpful. In his two-volume history of this term,²⁵ Ernst Feil showed that for Cicero *religio* does not function like our umbrella term "religion." Yet Feil's own results, mostly based on an analysis of *On the Nature of the Gods*, fail to take into account that Cicero's use of the term in the dialogue, that is to say, its use by different speakers, is strategic and part of the *prosopopoiia*, the characterization of the participants. Thus the triad *pietas*, *sanctitas*, and *religio*, which seems to juxtapose piety and dealings with the gods to religion, is not as fundamental as it seems initially to be. It is used in the introductory section only (1.3 and 1.14) and lacks sufficient definition. As the Academic Cotta's later rendering of the title of Epicurus's treatise *Peri hosiotes* as *De sanctitate, de pietate aduersus deos* (1.115) shows, the definition of *sanctitas* as the science of venerating the gods (*scientia colendorum deorum*, 1.116) is an attempt to translate a Greek concept employing a hendiadys. Whereas the introductory section uses *sanctitas* in questions or very general statements,²⁶ Cotta questions the possibility of such a "science" within the Epicurean framework. When the Stoic Balbus talks generally of the growth of *deorum cultus religionumque sanctitates* (2.5) but shortly afterward defines *religio* as the worship of the gods,²⁷ the speaker no longer seems to be implying differentiated concepts. The Stoic's general claim in the first

instance is obviously well-characterized as obfuscating, and hence undermined by the author Cicero. In comparison, therefore, to the middle term of the initial triad, the relationship of *pietas* and *religio* seems to be rather simple. *Pietas* describes a human's relationship with a human or divine natural superior. *Religio*, then, is the particular consequence (i.e., cult) in the case of the gods. Hence the existence of the gods is the precondition for any piety or religiosity toward them.²⁸

Despite its initial context in a triad with *pietas* and *sanctitas*, *religio* emerges as a central concept. It does not appear with any frequency, however, occurring only in certain opening or summarizing parts of the argumentation. Its distribution among the interlocutors is also unequal. The Epicurean Velleius never uses *religio*—until his very last sentence, where he leaves the context of argumentation proper (3.94). The Stoic Q. Lucilius Balbus uses the term only in a few instances, when talking about attention to public omens (e.g., 2.8, 10, and 11), apart from the passage already mentioned and a rejection of *superstitio* as opposed to *religio* (2.71). It is the Academic and *pontifex* Cotta who most frequently employs the term. He uses both the singular and the plural of the term. The plural juxtaposes *religiones* to *caerimoniae* (1.161) or *sacra* and *caerimonia* (3.5), in the first instance qualifying the *religiones* as “public.” It is the task of the pontiff to defend these. *Religio* is not a vague feeling (as his opponents are criticized for believing) or an “empty fear” like *superstitio* (1.117), but something resulting from the acceptance of the gods as part of one's social order, a human disposition, a habit, that finds its expression in corresponding rituals (*cultus deorum*, 1.117). Thus the existence of gods is a precondition for *religio* (ibid.), while the unrestrained multiplying of gods—a problem we must return to—could endanger it (3.60). *Religio* is a social fact of the highest importance for the stability of the community (3.94), but it is not an argument and cannot be introduced as such into philosophical discourse (see 1.118). In a hierarchy of descending generality, Cicero could list *mos*, *religio*, *disciplina*, *ius augurium*, *collegii auctoritas*—“tradition, religion, teaching, augural law, authority of the college” (*Div.* 2.70). Rather, *religio* is to be tamed by *ratio*, and this is the purpose of the whole book, as the author declares in the opening of the first book of *De natura deorum* (*Nat.* 1.1):

*perobscura quaestio est de natura deorum, quae et ad cognitionem animi
pulcherrima est et ad moderandam religionem necessaria.*

The inquiry concerning the nature of the gods, which is both most fine for understanding of the soul and necessary for regulating religion, is very difficult.²⁹

As has been shown above for the treatise *De legibus*, singular and plural do not correspond to our notions of “religion” and “religions.” *Religio* in the singular denotes a necessary corollary of any theism, and it finds its expression—and restraint—in different *religiones*. One can argue about theism—that is a theoretical problem and stance—but not about *religio*.

Does the change in argumentative position that one might, within reason, attribute to Cicero take place within the three books of the *De natura deorum* or—following Beard—only in *De divinatione*? An attempt to answer this question is a natural sequel to the preceding, and the second step in my argument.

Again, differences among the interlocutors are important. Velleius, characterized as one of the most prominent Roman Epicureans, hardly ever refers to Roman religion. On rare occasions, he uses the names of Roman deities—Iuppiter, Iuno, Vesta, Neptune, Ceres, and Minerva—but all in references to Greek authors, hence translations only.³⁰ His only substantial reference to Roman religious institutions is a critique of divinatory practices, clumping *haruspices*, *augures*, *harioli*, *vates*, and *coniectores* (“diviners”) together, and conveniently summarizing their bailiwick as superstition (1.55). Cotta, the socially most elevated of those present, is only marginally more expansive in his answer. He spends several paragraphs—and many names of gods—on painted and sculpted images of gods, but his criticism is directed against Epicurean epistemology, not against practices of representation (1.81–84, 100–101).³¹ Similarly, it is in the service of polemic against his philosophical adversary that Cotta quotes and applies the proverbial “it is remarkable that one haruspex can look another in the eye without grinning.”³² It is only at the end of his reply that he summarizes contemporary cult practices as based on the existence of caring, that is to say, good and benevolent,³³ deities (1.122):

Quod ni ita sit, quid ueneramur, quid precamur deos, cur sacris pontifices, cur auspiciis augures praesunt, quid optamus a deis immortalibus, quid uouemus?

If this were not so, what point would there be in our revering and exploring the gods, or in priests presiding over sacrifices, and augurs over

the auspices, or in petitioning and making vows to the immortal gods?
(trans. P.G. Walsh, Clarendon Press).

The selectivity of the otherwise unknown, but here highly praised (1.15) Stoic Lucilius is equally noteworthy. After a mention of Iuppiter early in his speech (2.4), no other god is named for about fifty paragraphs. Just one divine entity is named in the closing portion of the speech, *Pronoea nostra* (2.160). In between, planets, individualized by their divine names or identical genitives (*stella Martis* or *stella . . . Mars*), are named twice (2.52–53; 119). A large number of deities are named only in the middle of the speech, which concerns the creation of gods via physical interpretations or historical divinizations of men and virtues³⁴ and their amplification in myths. Superstition is a recurring theme; cult is not. The latter is only referred to in the early section on divination (2.6–13); here haruspices and augurs have pride of place, with many examples from Roman history added. The military *devotiones* mentioned in 2.10 are interpreted as cult (*capite velato verbis certis . . . devoverent*), but this is “the ancient history of piety,” not regular cult, in the eyes of the speaker. It is only the explosion of gods and distortions through mythological narratives, both causing *superstitio*, that gives rise to the demand for *cultus . . . optumus . . . castissimus . . . sanctissimus plenissimusque pietatis* (2.71) and the famous etymologies of *superstitio* and *religio* (2.72). Cult is spoken of in a rather abstract manner and treated more concretely only in historical cases related to divination, in positive form as narration of events, in negative form as regarding neglect.³⁵

There remains Cotta’s reply in the shorter third book. The opening paragraph contrasts starkly with everything heard before. The tone is matter-of-fact, full of names of Roman priests, and presents a threefold division of *all* of Roman religion (3.5), as if starting a *commentarius*:³⁶

Cumque omnis populi Romani religio in sacra et in auspicia diuisa sit, tertium adiunctum sit, si quid praedictionis causa ex portentis et monstris Sibyllae interpretes haruspicesve monuerunt.

The religion of the Roman people in general has two separate aspects, its ritual and the auspices, to which a third element is added when, as a result of portents and prodigies, the interpreters of the Sibyl or the haruspices offer prophetic advice. (trans. Walsh)³⁷

The establishment of the auspices by Romulus, and of the other cults (*sacra*) by Numa, is mentioned—and there Cotta stops. All this, he declares, is what he feels (*sentiat*) as a pontiff, but so far he has not heard a cogent argument for the religious practice as described before from his Stoic opponent: “Since you are a philosopher, I must exact from you a rationale for religion (*rationem . . . religionis*), whereas I must lend assent to our forebears even when no rationale is offered” (3.6). As is shown by the context, *rationem . . . religionis* here refers to the theistic foundation of cult, and not to a rational justification of the type of cult chosen. It should be noted, however, that in his brief statement Cotta offers a general interpretation of cult—appeasement (*placatio*)—that is not in accordance with the Stoic model.

Every interpretation of Cotta's speech is subject to the problem that a large part of the speech, the refutation of Balbus's proof that the world is ruled by the gods, is lacking in the manuscript tradition (defect in 3.65). Yet the extant portion of the speech is substantial and clearly indicative. Detailed references to cult are very limited. Balbus's example of the *devotio* is explicitly rejected as an instance of cult; instead, it is classified as a “stratagem” (3.15). In 3.87f., the inconsistency between the typical contents of prayers, which neither ask for nor give thanks for virtues, and the divinization of such virtues is pointed out. Sacrifice is hinted at in the same context (3.88). This line of reasoning implies that health, wealth, and social standing may well be the aims of cult, but according to the standards of a Stoic conception of the gods, that should not be so.

In accordance with the concept of religion as particularly endorsed by Cotta, much more effort is expended dealing with gods. Again, the selection and the positioning are highly strategic. The celestial Iuppiter, the Stoic god par excellence, is given pride of place, but it is pointed out that usually invocations are addressed to Capitoline Iuppiter instead (3.10 f.). Then, a whole bundle of gods are named in 3.39, starting with Alabandus, Tenes, and Leucothea, all merely local additions to the pantheon. Astral deities like She-Goat, Scorpion, Bull, and Lion follow, succeeded by the metaphorical use of Ceres for harvest and Liber for wine (3.40f.). Chapter 42 deals with the problem of a plurality of Iuppiters and Herculese. The argumentative figure of the “sorites” invites the naming of further minor deities, always starting from the known one, from the Nymphs to the Panisci, from Neptune to Orcus, Acheron, Charon, and Cerberus—and back again. If the first are gods, why not the latter; if the latter not, why, then, the first? The argument, credited

to Carneades by Cotta, is as Romanized as possible. This holds for the abstract concepts Amor, Dolus, Metus, Labor, Invidentia, Fatum, Senectus, Mors, and so on (3.44) as well as for the not Olympic but Roman Apollo, Volcanus, Mercurius, Hercules, Aesculapius, and so on (3.45). The list of abstract deities in 3.47—Honos, Fides, Mens, Concordia, Spes, Moneta—clearly refers to Roman temple foundations. To accept bulls and horses and other animals as deities is clearly the strongest variation (*ibid.*). The rest of the argument of this part (3.46–64) has to do with criticism of mythology and mythological concepts of the gods, who are named time and again. The naming of Neptune and Ceres at the end of 3.64 is clearly a decrescendo. The arguments of the next part (3.65–93), directed against the thesis that the gods care for humans, name gods several times, but the selection is restricted to a small number of those great personal or abstract deities already mentioned.³⁸ Only *vestra Providentia* in 3.78 directly refers to the beginning of Lucilius's speech, where, however, Lucilius had spoken of the Stoic deity as Iuppiter (2.4).

Regarding the gods, Cotta subtly hints at his summarizing judgments of the Epicurean as well as Stoic position in the very last sentences of both of his refutations. The Epicurean position in fact (*re*, 1.123) denies the existence of the gods, and hence no longer offers the necessary basis for religion, for cult—*quid enim dicam "propitius sit"* ("why should I say 'be gracious'?" 1.124). In contrast, the Stoic position implies the unrestrained multiplication of gods (*qui a te . . . innumerabiles explicati sunt*, 3.93). The strategy of naming deities has not been fortuitous; the *reductio ad absurdum* of every form of historical, mythological, or analogous reasoning must have been central to the argumentation of the third book in its complete form. The argumentation is illustrated by reference to the vast number of deities venerated in thousands of Greek localities. If all those are considered to be gods who are known to have altars in Greece (3.46),³⁹ would the lack of any cult known to be already extant for a certain figure be an argument against the claim to that figure's divinity (3.45)? In this view the mythological inflation in the number of gods furthered by the Stoics (among others) endangers the basis of religion. It has to be resisted in order to avoid undermining religious feelings (3.60). Inflating, multiplying without restriction, the number of signs devalues them, producing something that is no longer worthy (*digna certe non sunt deo*, 3.61) of the real god(s).

Evidently, it is Cotta who takes the connection between philosophical claims and cult most seriously, who demands, as we have seen before, a

rationale for religion. He is the only one who is not content with "opinion."⁴⁰ It is he who—in the fiction of the dialogue—actively starts the whole discussion (1.17) and urges his interlocutors to see it through to the end, not only in the leisure of the *feriae latinae*, but even in the face of real business.⁴¹ This approach is basically in agreement with the consequences of thinking about the nature of the gods as envisaged in the authorial *prooemium* (1.3, 14). Compared to this, Velleius is without social standing and has, quite literally, not much to say.⁴² Lucilius Balbus speaks much longer, but his *stabilis certaque sententia*, his firm and stable theory (2.2), is above all invested in doxographic precision, order, and internal coherence; it is fundamentally Greek in content and outlook. And yet it is he to whom the authorial voice gives his (even if weak) consent (3.95):

Haec cum essent dicta, ita discussimus, ut Velleio Cottae disputatio uerior, mihi Balbi ad ueritatis similitudinem uideretur esse propensior.

Following the discussion, we went our different ways. Cotta's argument seemed to Velleius to be the more truthful, but in my eyes Balbus' case seemed to come more closely to a semblance of the truth. (trans. Walsh)

Philosophia togata

What is happening here? In a very careful analysis of some passages central to epistemological issues, the philosopher Joseph G. De Filippo has detailed the difference between Cotta's radical skepticism, which opens up free choice regarding the acceptance of tradition, and Cicero's (i.e., the character and probably the author, too) rationalistically attenuated skepticism. Cotta's acceptance of tradition is not based on any argument proffered but is rather a fideist position in a modern sense.⁴³ Cicero, on the other hand, according to De Filippo, acknowledges the necessity and possibility of subjecting tradition to rational inquiry. On the basis of closer analysis of the actual (even if restricted) treatment of Roman tradition, this insight can be modified. In the dramatic division of roles, it is Cotta who consistently demands this connection, using practice to criticize theory and theory to criticize practice. More than anybody else, he is aware of the dangers implicit in this connection (the fragment, derived from Lactantius, is rightly attributed to Cotta):

*non esse illa uulgo disputanda, ne susceptas publice religiones disputatio talis extinguat.*⁴⁴

Such arguments should not be publicly aired in case discussion of this sort subverts the religious practices. (trans. modifying Walsh *post* 3.65)

Given the choice between no god and too many gods as a basis for religion,⁴⁵ the character Cicero opts for the latter. It is—admittedly—a very weak theoretical position, but it is the best basis among the options available. As Cotta does not offer any option, Velleius’s opting for Cotta is without clear referent. Thus, denying himself any basis gives dramatic form to Velleius’s dropping out of the range of available options. By his final choice, Cicero entails the Stoic’s declaration of fighting *pro aris et fociis*, a fight to be fought on the level of *ratio*.⁴⁶ By choosing this option, Cicero does not invalidate all the arguments uttered by his fellow Academic. The option chosen remains a very weak one, without positive indications of consequences on its own. But it is a serious option that avoids the division into a public and a private *persona*, a philosophical and a traditional *persona*, as indicated by Cotta. It is a starting point for further arguments, the mention of dreams in the sentence immediately preceding (3.95) has already announced the topic with which one might begin. And Cicero did continue.

On Divination starts where *On the Nature of the Gods* left off, differentiating between *impia fraus*—the undue neglect of the deities—and the *anilis superstitio* of unnecessary religious practices (1.7) by inquiring into the existence of divination. The structure of *On Divination* is less complex than that of *On the Nature of the Gods*: Cicero’s brother Quintus argues for the Stoic position in the first book, on the basis of a large number of ethnographic data and historical examples of successful divination; Marcus’s refutation fills the second book. The arguments cite a broad range of examples from the Greco-Roman history of religion. The critique includes Roman practices,⁴⁷ but these are not isolated. There is a difference in quantity compared to *De natura deorum*, but not in quality. “Divination” as analyzed is not the ritual practice, but the ontological (or physical) possibility of prescience. The problem is whether the existence of foreknowledge and the existence of the gods are interrelated, as Quintus argues (1.9). Thus Beard’s claim of a radical innovation in *De divinatione* is to be rejected.⁴⁸ In the view presented here, *De divinatione* retraces ground already covered by *De natura deorum*.

Against the backdrop of the end of the earlier dialogue, explicitly recalled by Quintus in the beginning of his speech (1.9), the distribution of roles is all the more remarkable. Now, Cicero, the voice of the author, is the opponent of the Stoic position, criticizing at length belief in the possibility of divination such as was intrinsic to Roman, Greek, and other religious practices. Obviously, he has not become a dogmatic Stoic, a message driven home quite impressively by the open end of the second book. Is that all there is to say? No final judgment is made. There is no internal audience within the dialogue to judge, and the two protagonists agree to separate without any comparison of the plausibility of the two positions proffered (2.150), in order not to create any model or establish any authority that might influence the judgment of the readership. What might be at stake?

Taking into consideration the beginning of the fragmentary third "religious" dialogue, *De fato*, as well, two levels may be distinguished. On the argumentative level, all participants assure each other time and again that they do not really intend to question the existence of the gods (thereby at least implicitly, or, like the Stoic Lucilius, quite explicitly, questioning the resulting necessity of cult). This is again part of the summary of the earlier dialogue in *De divinatione* (1.8) by the speaker Marcus, even if for Quintus the contrary seems to be the case:

"Optime," inquam. "Etenim ipse Cotta sic disputat ut Stoicorum magis argumenta confutet quam hominum deleat religionem." tum Quintus "dicitur quidem istud" inquit "a Cotta et uero saepius, credo ne communia iura migrare uideatur; sed studio contra Stoicos disserendi deos mihi uidetur funditus tollere."

"Splendid!" I said, "for Cotta argues in this way to destroy the Stoics' arguments rather than to destroy men's religion." Then Quintus said, "That is indeed said by Cotta and repeatedly so, I think, in order that he may not appear to reject what is generally held to be right. But in his eagerness to argue against the Stoics I think that he utterly rejects the gods." (trans. Wardle)

The author makes his interlocutors consciously avoid the open articulation of radical arguments, but the result is that assertions that seem less radical can appear—or can be construed as—insincere. This holds true both for the Epicurean, perhaps only verbally claiming to preserve belief in the existence

of gods, and for the Academic, who might in fact really be criticizing every positive argument for the gods' existence. Argument and intention might seem to part company.

This unsolved problem points to the second, meta-argumentative, level. The social position of the participants is not without importance. If we neglect (as Cicero himself invites us to do) the Epicurean arguments voiced in *De natura deorum*, the most critical position is given to those of highest standing and known religious engagement in each dialogue: to the pontiff Cotta in the earlier work and to the augur Marcus Tullius Cicero in the later. The authority thus given to their statements ensures that their critical arguments are taken seriously and that their stance is judged sincere. This does not mean one has to endorse their position, as the authorial voice demonstrated by opting against Cotta, the host and senior, at the end of *De natura deorum*. The characters are enacting norms of philosophical discussion at Rome, as John Henderson has claimed for all the late dialogues.⁴⁹ The performative aspect is highly important—the use of *otium* offered by festivals as the impetus to pursue such discussions, the decorum exercised in addressing each other and in finding consensus about further proceedings, *dignitas*, *gravitas*, *constantia*.⁵⁰ To philosophize is as honorable as to act in the Forum, and it follows similar norms. This is of course important for a Cicero, out of political office in the 40s just as earlier in the 50s,⁵¹ but it is a norm that applies universally. We have to remember that the whole project started with the *protreptikos*. *Hortensius* is an invitation to philosophy, for “the Roman man” who is “only timidly tackling this type of discussion” (Cic. *Fat.* 1.4).⁵² If philosophy leads to a good life, a *vita beata*, as all schools claimed, the practice of philosophizing itself must adhere to the norms of such a life.⁵³ This, again, relates to the question of sincerity and double standards. Any systematic difference between public and private standards is unacceptable. Roman ears must get used to a form of rational discussion about religion that will practically, but should not normatively, be confined to schools. Here, Cicero clearly takes a stand against his character Cotta.

Conclusion: Discussing Roman Religion in the Late Republic

Are norms of argumentation, that is to say, meta-argumentation, all that we learn from the hundreds of pages of the six books of *De natura deorum*, *De divinatione*, and *De fato*? The contents of the dialogue on divination, by its

parallelism to the earlier theological dialogue, indicate a clear “no” to that question. As a whole, the texts stress the point already quoted from the beginning of *De divinatione*. It is a necessary and legitimate enterprise to inquire into the place of an adequate religion between neglect of cult and overeagerness (*superstitio*). The inquiry is legitimate, as it does not aim at destroying the notion of the gods and the functioning of society built on this notion. The inquiry is necessary, as tradition, the *maiores*, and Roman history so far have not supplied—or applied—a more rigorous measuring rod. The forefathers’ temple building for the deity “Fever” is a stock example already used in *On the Laws* (2.28) and *On the Nature of the Gods* (3.63). The indiscriminating acceptance of the most varied forms of Italian as well as foreign divination by Quintus in the first book of *De divinatione*, the use made of the Sibylline books (which might better have been employed to curb the proliferation of indecent cults),⁵⁴ the stress laid on the problem of “innumerable dreams” (2.146f.),⁵⁵ all point in the same direction, as has been summarized for *De natura deorum*. Inflation of religious signs results in devaluation, bringing religion down into the realm of the ignoble.⁵⁶

Concern with the “inflation of religious signs,” of gods as well as of rituals, would easily fit with what we know about the late republican history of religion at Rome.⁵⁷ The intensified cultural exchange with the whole of the Mediterranean, the influx of prisoners of war, merchants, and people from every country, the public presence of Hellenistic culture, the privatization of religion by individuals⁵⁸ (as amply demonstrated by Cicero’s own poetry, so extensively quoted by his brother Quintus in *De divinatione*),⁵⁹ Isis on the Capitoline and Dionysus in living rooms,⁶⁰ all form part of this image. Religious innovation, whether pertaining to the date of festivals or the divinization of men, was as contemporary a phenomenon as the neglect of traditional cults. The use of foreign expertise and the invention of tradition—Caesar’s reform of the calendar being an example of the former,⁶¹ the revision of the festival of the Lupercalia being a case of the latter—were thoroughly contemporary phenomena.

Varro’s theoretical strategy of the three types of theology and *theologia civilis*, discussed in Chapter 12, operated in particular to delineate more and less legitimate theologies and to systematize a tradition understood to have developed in historical time. His solution was addressed to a priest and written by someone assuming a priestly task in writing.⁶² The contemporary *lex Ursonensis*, analyzed in Chapter 11, referred religion to a separate space, firmly subjecting the rest of public religion to the magistrates. Cicero paralleled the

Varronian option of bringing rationality and religion together but developed a more complex and more procedural model. Religion had to be tamed by reasoning, but arguments are slow. Individual reasoning would not easily arrive at publicly binding decisions, but it had to be attempted. Priests and senators who had become philosophers might change religion in the long run. This temporal perspective is not part of the text, but it is implicit in it. In the end, it became a part of the history of the text. Cicero's dialogues survived and inspired not only Christian apologists (as did Varro's texts), but early modern critics of religion, too.

Chapter 14

Greek Rationality and Roman Traditions in the Late Republic

Historical change is a difficult thing to analyze and involves many areas and interacting factors. Previous research on the middle and late Republic has concentrated on only a few of these and has tended to do so from a political, cultural, or literary perspective. Research with a political focus has been concentrated on the elite, on the Roman nobility. Karl-Joachim Hölkeskamp's book on the origins of the Roman nobility is one of the recent rallying points of this approach,¹ while subsequent discussion has given the date of 338 B.C.E., the end of the wars against the Latins, an aura of sanctity. By formulating and enforcing a common ethos of aristocratic competition in publicly useful fields only, the patrician and plebeian elite became united and developed an expansionist power that established the Mediterranean *imperium*. The loss of this internal equality and cohesion in the civil wars of the first century signaled the demise of the Roman Republic—*res publica amissa*, as the title of Christian Meier's book puts it.²

With regard to culture, the focus of scholarship has been on Hellenization. This is an older and more diffused tradition of inquiry, including metaphorical variants of defilement, deterioration of *vera Romanitas*, and modernization. In the fields of archaeology and art history, scholars like Filippo Coarelli and Paul Zanker have shown how Greek art could be used as a medium of aristocratic competition or even interurban competition. The Hellenization of middle Italian townships is the phenomenological expression of the Romanization of their elites.³ As regards religion, the whole process still tends to be seen in terms of deterioration caused by imports and the emptying of traditions by intellectual critique.

In the area of literature, the number of perspectives remains limited: the rediscovery of ancient drama by ancient historians has produced a number of interpretations that identify Roman values in comedic plays or demonstrate how historiographical texts bolstered national identity. Apart from these—by now—*topoi*, the consensus appears to be that literature became an increasingly autonomous sphere; despite books like those of Thomas Habinek,⁴ studies on the interaction between power relations and cultural production—on patronage for example—have largely been confined to imperial literature. From a Hellenic point of view, quite often shared by Latinists, Latin literature improved from third- to second-rate Hellenistic literary production in the two hundred years leading to the end of the first century.

In his analysis of the Roman “cultural revolution,” Andrew Wallace-Hadrill has discussed the advantages and limits of the perspectives of Hellenization and Romanization and pointed to their mutual interdependency.⁵ His choice of the term “revolution” is informed by the period under his consideration, which extends into the second century of the Principate, while his choice of the term “culture” is driven by a focus on areas beyond political history and outside a narrow description of an elite culture.⁶ One of the main results of his analysis is the discovery of the complexity of the interplay of Hellenistic and Roman developmental vectors: breaking down and redefining identity boundaries, partly reinforcing them, partly opening them, as can be seen in the politics of citizenship and the catastrophe of the Social War.⁷

This quick *tour d’horizon* is intended to recall the *communis opinio* at the beginning of this summarizing and concluding chapter, breaking down and recontextualizing the notion of rationalization. I offer seven perspectives of analysis, the last two forming a sort of historical conclusion to the processes addressed above. My key terms will be “public,” “Hellenization,” “ritualization,” “scripturalization,” “rationalization,” and finally, “self-reflection” and “professionalization.” These terms do not explain anything in and of themselves. I will instead use them to organize my description of complex cultural changes in the Roman Republic from the third to first century, and thus to point to the places of religion within this process (see Table 1). If “religion” does not denote any unified phenomenon in this period—and this is a claim I have to make—it cannot attain a single place in this model.

TABLE I. A COMPLEX MODEL FOR INTELLECTUAL, MEDIAL, AND POLITICAL CHANGE IN THE LATE ROMAN REPUBLIC

External influences (Hellenization)	Competitive usage (pressure of social change)	Media of control (religion, public space)	Controlled usage	Private evasion	Early imperial reaction: public radicalization
Art	display	ritualization	games, processions, public building	<i>villegiatura</i>	monopolistic patronage
Rationalization	accelerated reform	institutionalization	augury, courts, assemblies	philosophical autonomy	central administration
writing/textualization, rhetoric	patronage, alphabetization, schools	deprofessionalization, delegitimization (burning of books)	documentation	learning / senatorial poets (elegy)	public communication: epigraphy

Public Spaces

In speaking of the Roman public and public space, I avoid the term “state”: whatever its convenience as a shorthand, it involves so many anachronisms as to risk very considerable interpretive distortion. Eschewing it, I can focus on interaction and communication, that is to say, on practices, instead of—frequently nonexistent—institutions. “Public” is a key term for the Roman *res publica*. To act in public space is a performance, a display of the choreography of power, of equality and inequalities. It also represents the reinvigoration of status and prestige: the leader of a procession on a carriage, the magistrate on the *sella curulis* in his purple-embroidered toga, the white-clad *candidatus* in a public meeting. At the same time, to be forced to act publicly is a form of control. Aristocratic action is formalized, visible, open to critique: major political action must be preceded by the observation of the birds, legal proposals have to be read in front of *comitia*, penal sanctions have to be established in courts and executed under the eyes of the tribunes of the *plebs*. Finally, public means communication. Public space is a space of communication, of nonverbal as well as highly differentiated verbal communication; statuary and rhetoric, drama and triumphal painting, were all public arts.⁸

The boundary between public and private was not as sharp as we tend to think. Public space crept into private houses. The atrium for the patron's reception of his clients, the *triclinium* for the entertainment of peers, the rooms for the meetings of the colleges of so-called public priests, gave "public" functions to private property.⁹ At the same time, private property crept into public space. At the end of the Republic, Varro laments the destruction of groves by the enlargement of private villas in the city of Rome; already Cassius Hemina and Calpurnius Piso told of massive removals of private statues from the Capitoline area and the Forum,¹⁰ caused by the frequent attempts of "private men" to display their personal achievements publicly. Obviously, a wide range of cultural artifacts existed that were intended for public display and recognition, from indoor wall painting to the coins.¹¹ The practices of display themselves were intensively observed and frequently imitated. The establishment of aesthetic norms must have occurred correspondingly. Novelty was noticed and, frequently, appreciated, and yet, as we will see, standards could be conflicting.

Primary public interaction, that is, a public made up of those present, had specific forms. Political assemblies were one of them: different segments of the population were called together for different purposes, meeting at fixed places and fixed or appointed periods. The right to speak was usually restricted to the magistrates leading the assemblies, to leading senators. However, the *comitia* and *senatus* allowed those present at least to vote, even if, because of the voting system, the weight of an individual vote could vary widely in the *comitia centuriata* or *tributa*.

Law courts were another field of public interaction. The establishment and growth of a system of courts, acting publicly on the basis of written laws and formalized procedures and even evidence, was probably one of the most important developments of the Roman Republic, although I have unfortunately been compelled largely to neglect it in my account.¹²

By the second century another form of public communication had been developed: literature. We do not know much about its spread and actual possibilities by that time, but it supplied Roman society with a medium of verbal communication between people who were not present in the same location. Even in a scriptographical society, that is, one that could produce multiple written texts only in the form of individual copies, literature thus opened up a diffuse public, concentrated, probably, in the upper echelons of society.

Finally, there is religion. It shared many features with political assemblies: the Senate sat in temples; voting assemblies were preceded by rituals.

Religious rituals, in turn, were often led by political magistrates and depended on political authorization and financing. Nevertheless, an analytical distinction seems useful. Roman religion could be loosely defined by the involvement of nonhuman actors, superhuman gods, who were supposed to form a controlling organization above peer review. The history of Roman games and drama as sketched in earlier parts of this book points to the enormous expansion of the religious within public communication.

Hellenization

“Hellenization” has long been rightly regarded as one of the most important perspectives on the history of the late Republic. However, the inquiries of the previous chapters have concurred with the research and conclusions of scholars such as Erich Gruen and Jean-Louis Ferrary (to name but two): Hellenization was a very complex process.¹³ Two broader aspects of the process should be pointed out. First, the formation of aristocratic elites and the ability to establish translocal economic or cultural contacts seem to be related to one another in many epochs and societies. This holds true for Iron Age Latium and the Orientalizing phase, as well as for late republican nobles.¹⁴ The ability to own and use exotic products or personal relationships conveys prestige and enhances the ability to exercise power. Second, at Rome, Hellenization was by no means a new factor in the late middle Republic. Greek cultural products were present in the city on the Tiber from its earliest urban phases onward, imported either directly from the Greek colonies of Magna Graecia or indirectly via the Etruscans. The decorative program of the temple of San Omobono, the image and story of Anchises on ceramics, the presence of Dionysian imagery and ritual in the fourth century, all attest to its presence.¹⁵

I should like to discuss the specific shape of late republican Hellenization in terms of those three aspects that have proved to be most important in the course of my investigation. First, Hellenistic cultural products were used as a resource for aristocratic competition. Romans robbed or bought Greek “art.” This transfer of culture frequently entailed decontextualization. A Greek cult image was displayed in a portico or a villa. The pragmatics and semantics of texts or images could change. An obelisk at Rome no longer conveyed its precise Egyptian meaning. And yet it is interesting to note that this is not entirely true. The Romans did not appreciate everything foreign to a uniform

degree; different places of origin carried different amounts of prestige. Greek products seem to have been particularly attractive because the Romans did not acquire Hellenic art and literature alone, but the Hellenic standards of criticism of art and literature, too. This nascent international “market” for art therefore subjected objects to translocal standards of value. The existence of such a market is both a factor in and an indicator of the emergence of such translocal standards.¹⁶ Again, this reflection does not invalidate research concerning the specific features of the new recontextualization of decontextualized objects, but it points to the existence of external standards as well. Something like connoisseurship existed: the prologues of Plautine comedies not only gave a sketch of the setting but frequently dealt with questions of Greek models in a very detailed manner.¹⁷ The prologue of Plautus’s *Amphitryon* discusses genre—is the play a *comoedia*, *tragoedia*, or *tragicomoedia*?¹⁸—while the prologues of, for example, the *Asinaria* and *Casina* give details about Greek models and their authors, praising “old comedies” over new ones,¹⁹ and the prologues of the *Aulularia* and *Captivi* hasten to mention Greek-sounding names like Euclio or Hegio to demonstrate a Greek setting or Greek ancestry.²⁰ Thus Hellenization was a process consciously acknowledged by contemporaries and clearly differentiated according to situation. The Greek words and quotations that adorn Cicero’s letters are lacking in his public speeches.

Hellenization, second, served as an intellectual and diplomatic resource. Roman culture was the culture of a single city, Greek and Hellenistic culture a transnational culture of a large geographical area. Therefore, Greek cultural techniques contained many more universalistic features,²¹ whether developed in states of power and superiority or political weakness. Rhetoric and philosophy were such techniques, suitable for rulers and conflicting parties. Universalism did not imply universal equality, but standards of acting, evaluating, and judging that could be held to apply everywhere. At least for the Mediterranean basin, the same cultural conglomerate had developed a common geographical, chronological, and historical framework that offered coordinates for every political community within it. This network of connecting routes, dates, and narratives offered the Romans the possibility of “plugging in,”²² to locate themselves, their city, and its history in a wider net. Latin epic tapped this source. Fabius Pictor, who wrote Greek historiography at the end of the third century, used this chronology for his account of Roman history. Cato the Elder invented the early people known as Aborigines in order to fit Italian history into a similarly structured and chronologically compatible framework. A stable alternative Roman chronology was not developed before

the first century, which witnessed the completion of the consular *fasti* and the dating *ab urbe condita*.

Historiography leads to the third characteristic of Hellenization, as a media resource. The technique of writing had been known at Rome for several centuries; the *lapis niger* attests its use for public texts already at the turn from the sixth to the fifth century. However, the use of writing to establish a public and permanent monumental form of memory and control—in producing bronze copies of laws for public display—has to be differentiated from the use of written texts for the communication of individual opinion. According to ancient and modern literary history, Ap. Claudius Caecus was the first to put written copies of his speeches, and personal opinions in poetic form, in circulation. This initiative of the early third century, however, found no imitators for nearly a century.²³ Dramatic texts and epics followed from around the mid-third century onward, but writing would have served as a tool for oral performance only. It is only with Ennius and Cato in the first third of the second century that Latin texts were put into circulation without implying performance as the normal mode of communication. Religion, too, became an object of writing, which was used to organize (*fasti*), document (priestly *acta*), preserve (antiquarians), and discuss it (philosophers). This process changed Roman religion profoundly.

Hence Hellenization offered more than an alphabet that had been used in modified form for centuries. It offered modes of literary communication. It offered the institutions of different genres, that is, textual structures and linguistic forms preadapted to certain contents and purposes: epic narrative, praising the deeds of ancestors; historiography, detailing sequence, causes, roles, and participants in historical events; drama, transforming historical or mythical events into dialogues. When Cato the Elder distributed his anti-Hellenic speeches and encyclopedias of Roman knowledge, he used a thoroughly Hellenized mode of communication and was highly innovative in terms of Roman modes of narrating the past.²⁴

Processes of Hellenization caused specific reactions of anti-Hellenism,²⁵ which could be summarized as strategies against increased social differentiation. Limited economic capabilities even among members of the senatorial class may form an important socioeconomic background. Not everybody was able to finance ever larger and more luxurious villas, display ever more expensive Greek statues, or employ Greek professionals for plays or teaching. Such people must have feared falling behind in the aristocratic competition for prestige—and hence losing further economic opportunities by not being

elected to more lucrative magistracies.²⁶ Ideologically, the principle of aristocratic egalitarianism was the aim of this anti-Hellenism. In terms of content, it argued by generalizations and ethnifications. Among these anti-Hellenists, the connoisseur discourse was replaced by ethnic stereotypes of Greece versus Rome and Roman farmers versus *Graeculi*—a term more frequently applied to fellow Romans than to “real” Greeks.²⁷

Ritualization

I use the term “ritualization” in a very restricted manner, that is, as a process that describes the formalizing and stereotyping of certain activities as ritualized activities in public space. Public space, as defined earlier, and religion were brought in—to always differing degrees—as instruments of control.

Examples abound. The proliferating custom of displaying statues of oneself at central places in the city was fought by rituals such as the triumph or the *pompa funebris*, that is, rituals that defined and publicly enacted the legitimacy of public images by binding them to public offices or achievements, as I have shown in Chapter 5. The taming of dramatic spectacles offers another example. The expansion of dramatic production in the Hellenistic world and archaeological evidence for Italy suggest that dramatic performances must have been known and cherished at Rome long before Livius Andronicus; this is even in accordance with the late republican reconstruction by Varro, referred to by Livy, of the gradual deepening of Rome’s indirect and direct acquaintance with Greek plays.²⁸ The growing number of annual, or at least regular, Roman games (*ludi*), including *ludi scaenici*, is part of the Senate’s attempt to gain control over such performances. This may have been directed against wandering producers, but it could equally well have been an attack on private performances as organized by members of the Roman nobility. Thus the competition in stage performances became a part of aristocratic competition as formalized as magisterial tasks. Such a form of patronage could at the same time employ, and even further, the professionalization of the actors. The same holds true for the *ludi circenses*. Aristocratic competition, which must have formed part of the games of the early Republic,²⁹ was restricted to ritual displays like the Augustan *lusus Troiae*.³⁰ Likewise, the ritual of the Equus October led to the killing of a horse of the winning chariot and thus shifted interest from the horse race to the competition within the urban *plebs*, who fought for the horse’s head.

Ritualization went even farther. I tend to interpret the creation of the important priestly colleges of the middle and late Republic as exercises in social control. Religious and juridical competences that belonged to patricians as an order were focused on a limited number of priests or magistrates. Focused, not restricted: nonpontiffs did not lose the right to conduct juridical activities, and nonaugurs did not lose the right to take or judge auspices; in fact, the universal obligation for magistrates to take auspices became one of the most important elements of public control of the magisterial exercise of power.³¹ The process, which must belong to the fourth century, was formally completed by the *lex Ogulnia* (300) that created the patricio-plebeian colleges of the *pontifices* and *augures*, who in turn became the models for the *epulones* and finally even for the interpreters of the Sibylline books (*decemviri* or *quindecimviri sacris faciundis*). The Salii, young patrician aristocrats, had to perform their luxurious dinners (which prepared for the formalities of intra-aristocratic bond building) in public temples.³²

To state my thesis in the most pointed terms possible, from the late fourth century onward, religion became the decisive medium for public control of aristocratic competition. This functional restriction of religion proved to be a heavy burden on religion compared to that in other Hellenistic cities. Other forms of religious activity, common in other cities—for example, cults of heroes or mystery cults like the Eleusinian mysteries—were kept out of the public space. Having been invested with such importance, religion could not be legitimately practiced—could not be allowed to be practiced—publicly by prophets taking a critical stance against the senatorial course of action; thus the producers of texts like the *carmina Marciana* were marginalized.³³ When the process reached its peak at the end of the Second Punic War and the beginning of the second century with the wars in the East, action was taken even against groups of Roman citizens in quasi-military form—I am talking about the Bacchanalian “affair” and the Senate’s decree on the Bacchanalia of 186, known to us from Livy and a contemporary bronze copy of the decree itself. At the same time, in order for religion to function effectively, its autonomy had to be stressed. Rome did not fight foreign gods, but their dangerous followers.

Writing

Writing, too, could be an instrument of control. The publication of the Twelve Tables was said to have resulted in the permanent presence of a

written law code—we know neither the exact content nor its life span. What we do know about it is entirely due to the (re-)construction of this founding text by second-century commentaries and their later users.³⁴ Minutes were produced for the pontiffs probably from the mid-third century onward; other public institutions followed or even preceded. It is interesting to note that, while the minutes of the pontiffs were taken and kept by the *pontifex maximus*, they were accessible to nonpriestly users, too. The *commentarii* of a magistrate were not entirely private writings. Personal authorship was not a form of privatization, but of control. The person of the author, identical with the most important actor, was recognizable in the text; he authorized it and was responsible for the validity of its contents. By the third century, this was not seen as problematic. A good Roman would not dare not to credit the *acta pontificis maximi*, even if any given person, a Cato the Elder, say, personally doubted that its contents were sound. But the spread of writing was slow. When Appius Claudius Caecus, one of the leading and most controversial figures of his age, published his speeches and opinions in the form of at least one written *oratio* and *sententiae* in the first decade of the third century, nobody followed his example.³⁵

Things had changed by the beginning of the second century. When Cato the Elder started to publish his speeches and political and cultural positions, his example was rapidly taken up by others. The biased character of his writings was recognized and opposed in like manner, if with less success in the long run. Already by the end of the third century, the famous verse *malum dabunt Metelli Naevio poetae* demonstrated the power of disseminated words, and the recognition and counteruse of this power.³⁶ We have, however, to wait for the end of the second century and the period of Marius and Sulla to witness the widespread use of literacy in personal memory and political propaganda.³⁷

The name of Naevius points to another problem involved in the history of writing in this period: authors who did not belong to the senatorial class. This did not need to be important, so long as professional or freedmen writers remained totally dependent, in particular dependent on the magistrate who organized games. Patronage and professionalization opened space for creativity. The enormous range of genres that Ennius introduced to the Latin language could give an example in the case of patronage; Lucilius, economically independent and critic of Accius, the head of the *collegium poetarum*, illustrates the possibilities of professionalism.³⁸ At the same time it has to be stressed that the forms of oratory connected with these public institutions of

control, that is, political oratory and lawsuits,³⁹ were monopolized by *nobiles*. Only the fraction of rich but nonsenatorial Romans who later became known under the name of *ordo equitum Romanorum* gained access to the ranks of the judges. The popularization of Greek rhetoric by Latin instruction was forbidden by the early first century, when such schools—only recently founded—were closed again.⁴⁰ However, they reopened. By the first century, literary communication had become an important medium for political communication far beyond the city of Rome; the municipal elites of Italy had become important addressees.⁴¹

Rationalization

I shall continue to deal with texts, and even written texts, but I would like to change perspective. The enormous enlargement of the range of media created by importing Greek forms of theatrical and literary communication was not without implications in terms of contents. It was attractive to fix one's own words and thinking in writing, but, more than this, the Greek models offered new possibilities of argumentation and systematization. When Ennius wrote what may have been the first Latin prose text intended for reading rather than documentation, the *Euhemerus*, he did not add a new mythological narrative to an existing *thesaurus fabularum*, an existing storehouse of tales, but—closely following his Sicilian model—he demonstrated the explanatory power of historicization. The same intention, applied to history rather than religion and hence probably more appreciated by contemporaries, characterizes Cato's *Origines*, which was already explicitly a polemic against the purely chronicle-style documentation of the pontifical white boards and—at least implicitly—contemporary annalists.⁴² Cato occupied an exalted place because of the range of his works and the success of his political career. Nonetheless, like-minded contemporaries and successors produced systematic accounts of political practices, such as Sempronius Tuditanus's *Magistratuum libri*, or the first juristic treatises, such as those by Manlius Manilius, M. Iunius Brutus, P. Mucius Scaevola, and Cato's son, M. Porcius Cato Licinianus. By the second half of the second century, the contours of knowledge production familiar from the late Republic are visible to us, despite the nearly wholesale loss of the era's major texts.

The application of these new techniques to history proved to be of explosive import. The commemorative space of the past fulfilled legitimizing purposes at Rome, as in many societies. All the early Roman historiographers

had to elaborate on the existing stories and *exempla* that presented supposedly historical precedents for values or competences demanded in the present. Yet systematization did not accord well with exemplary argumentation. Cato's attempt at creating a history of the Italian nations tried to obliterate individual actors' names, while the chronological framework imposed already by the Greek text of Fabius Pictor and the annalistic leveling of historical figures into an even flow of time demanded new techniques for producing significance and signaling narrative and argumentative priorities. Either *exempla*, anecdotes, were integrated into a literary form that gave precedence to the articulation of a chronological framework—which produced distortions of one kind—or, if the interests of chronicle form were privileged and elaborated *exempla* were not included, importance had to be proved by iterations of consulates or the invention of dictatorships, extraordinary positions or other forms of upgrading the *cursus honorum*. The earlier periods of Roman history, in particular the first century of the Republic, offered the most convenient period for such elaboration and invention, and the fundamentals of historical knowledge concerning the period remained in dispute down to the beginning of the imperial period.⁴³

Attempts to form the past did not have to restrict themselves to Greek-style historiography. Other media, mostly also known from the Greeks, offered new possibilities. Memorial statuary, statues of long-dead historical figures, may have been introduced by the turn from the fourth to third century, starting with Brutus and the seven kings.⁴⁴ *Fabulae praetextae* featured Roman magistrates in the place of Greek drama; Naevius started the practice in the late third century, and Accius marked its zenith and, already, its end by the late second century. From the first third of the second century, lists of magistrates, *fasti*, sometimes veritable chronicles, brought official ancestry and prestige to every new officeholder. The necessities of the now widespread rhetoric produced collections of *exempla* by the first century, following the Greek model of paradoxography; Cornelius Nepos published at least five volumes after 44.⁴⁵

Rationalization proved to be an enormous factor in religious change. In an oral society, fixing by writing is already an innovation, doing away with softer methods of solving conflicts, such as selective forgetfulness or retelling. Systematization produced conflicts. The application of the *fas-nefas* differentiation to the calendar attributed to Cn. Flavius in the final years of the fourth century (though, as we have seen, he was not the sole agent in its invention or popularization) led to problems in classifying the economically,

politically, and juridically important *nundinae*, and hence led at the last to the far-ranging reforms of the *lex Hortensia* of 287, which changed the rules concerning the timing and competence of different types of assemblies.⁴⁶ Radicalizing rules about priestly behavior produced quick successions of deposed *flamines* in the 220s and made a general who was a Salian priest stop his advances in the East during the time of a Roman festival in the 190s.⁴⁷ The rules governing divination, in particular auspicy, had been made an important factor in political control and were now subject to permanent discussion—in the Senate as well as in historiography—and legislative efforts. These led to the *leges Aeliae et Fufiae* of the late second century, whose contents cannot be reconstructed with any certainty because of the ever-conflicting claims made by later politicians referring to these laws. Treatises like Ennius's already mentioned *Euhemerus* involved external standards of rationality, produced by Greek philosophy, that many did not regard as acceptable forms for describing their own religious system. After Ennius, attempts to go beyond mere antiquarian documentation of historical and contemporary religious practice—an important movement in itself, as I said before—did not become visible before the final years of the Republic. Lucretius uncompromisingly took up the position of the Greek Epicurus. Cicero tried to present Roman upper-class ethics as a universally valid ethical position in *De officiis*, but in *De natura deorum* started to transcend a mere Greek account of theology occasionally illustrated by Roman examples. Varro tried to connect Greek rationality and Roman antiquarianism by giving his account of Roman religion in the *Antiquitates rerum divinarum* a philosophical frame that drew on a Greek differentiation of types of theology, thus inventing a new type of “civic theology” that was nothing other than antiquarian systematization in disguise, adding religion to the large number of accounts of cultural techniques, *artes*.⁴⁸ Cicero applauded Varro's achievement as a new manual of religious practice, and many restorations of temples in the Augustan period may have been inspired by Varronian interpretations. Names of contemporary authors demonstrate that neither Cicero nor Varro remained in isolation in these intellectual endeavors.⁴⁹ P. Nigidius Figulus wrote at least nineteen books “on the gods” (obviously used later by Cornelius Labeo) and the works *De augurio privato* (at least two books), *De extis*, and *De somnis*.⁵⁰ Auspicy and auguries were treated by Ap. Claudius Pulcher, M. Valerius Messala Rufus, and L. Caesar (in at least sixteen books) as well as by Veranius Flaccus (and intensively used by Verrius Flaccus).⁵¹

Self-Reflection and Professionalization

These external intellectual techniques, which I describe as instantiations of Greek rationality, were employed wherever they were useful—to win oratory battles or lawsuits, to reorganize administrative techniques, or to present one's own imperialistic position as a universalistic stance. Yet, once rationality had gained a foothold in Roman life, it proved difficult to stop its proliferation, its institutionalization, its application. By the end of the Republic, one did not need to leave Italy in order to find first-rate philosophical teachers, nor was it necessary to learn Greek in order to forearm oneself with rhetoric. Conflicts arose already by the middle of the second century, when Greek philosophers were forced to leave the city.⁵² Rhetoricians were to follow. Within the dense web of rules that organized the dependency of social status and political power, of prestige and success, the potential to win political or juridical duels by learnable techniques instead of patrilineal descent or a career of magistracies produced “status dissonances,” discrepancies between actual success and hereditary claims.⁵³

The aristocracy's fight for control took two forms: either the nobles tried to master the techniques themselves and to monopolize their use, or they tried to attach professionals of low social status to themselves personally by ownership or patronage. C. Sulpicius Galus, consul in 166, had explained a lunar eclipse at Pydna two years earlier and wrote an astronomical work himself. Others practiced connoisseurship. Writing drama must have been an economic success from the second century onward.⁵⁴ More personal genres accrued. One Lutatius Daphnis, perhaps needed as a coauthor for an autobiography, was sold for 700,000 sesterces, according to Pliny the highest prize ever paid for a *grammaticus*.⁵⁵ L. Apuleius was let for an annual sum of 400,000 sesterces by an equestrian Aeficius Calvinus,⁵⁶ otherwise unknown. These prices, the first of which was perhaps already paid before 125, reflect the competition of the buyers, in the form of their willingness to acquire prestige by paying exorbitant sums for literary services.⁵⁷ Similar developments are visible in the field of divination, where personally attached seers or haruspices were the only important and legitimate alternatives to augurs and interpreters of the Sibylline books.

Neither Cicero's nor Varro's works nor the grammatical and poetical writings of Caesar—a grammatical treatise *De analogia* and the poem *Iter*, written between two campaigns—could conceal the fact that individual aristocratic attempts to defeat processes of differentiation in literary communication and

religion ultimately were not successful on a societal level. Men gave up senatorial or equestrian careers in order to excel as declamators, poets, or historiographers. Scientific astrology questioned augury's monopoly of importance. Public spaces dissolved or were newly defined. The political significance of the Senate and the theater changed. What philosophy and rhetoric gained in prestige, they lost in political importance. The function of ritualization switched from control to propaganda: *supplicationes*, *feriae ex senatusconsulto*, fetial rites, monopolized triumphs, *ludi saeculares*, imperial cult. Greek rationality and Roman traditions had gained new functions. It was no longer the coherence of the aristocracy that ensured integration and defined the identity of the *res publica*.

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Notes

INTRODUCTION

1. For a historical overview, see Colin 1965; Gruen 1984; Roman 2005; for economics, David 1997, 95–125.
2. For an attempt at systematization, see Schluchter 1988, 2:38f.; cf. Ekstrand 2000, 103–7, following Brubaker 1984.
3. See Schluchter 1988, 2:22–42; Kippenberg 2001, e.g., 43f. and passim.
4. Cf. Wallace-Hadrill (1997, 12) on the inevitable adaption of rationality.
5. Schluchter 1988, 1:101, 104.
6. For the use of Weber's typology in historical research, see Kalberg 1980.
7. See Hölkeskamp 1987; Rüpke 2005a, 1419–40.
8. See, e.g., Goar 1972; Brunt 1989; more differentiated: Jocelyn 1976/77. Cf. Watkins 2007 for medieval England.
9. Beard, North, and Price 1998, as well as North 1989 and Beard 1994, indicate problems and point to mutually exclusive hypotheses rather than attempt a narrative in many instances. Rüpke 2007b does not offer more than a sketch.
10. For an earlier attempt, see Rüpke 2005d.
11. E.g., Flaig 2003; cf. Hölkeskamp 2003; Goldberg 2005, 122–24.
12. Goldberg 2005, 81, 113, 127. For an early date for the repetition of Plautine plays, see Deufert 2002, 29–31 (for *Casina*).
13. See Morgan 1998 for literary education.
14. Lact. *Inst.* 5.14f.
15. Moatti 1997.
16. The interest of Hubert Cancik (in Cancik 1998) in the history of rationality attests to exceptions.
17. See Habermas 1981, 103f.

CHAPTER I. THE BACKGROUND

1. See Gabba 1991, 159; 2000, 17, 21.
2. Cf. Paoletti and Camporeale 2005 for surrounding Etruscan cities.

3. Kolb 1981; Coarelli 1983, 1–19.
4. *ILLRP* 3.
5. Stressed by Veyne, Diogène 106 (1979): 3–29.
6. Coarelli 1983, 56–79.
7. Short critical account: Smith 1996, 161–63.
8. Scott 2009, 9–78.
9. Varro in Plin. *NH* 35.157.
10. Hesberg 2005, 80–84.
11. Nicolet 1974, 256 dates the final redaction to around 150.
12. Pyrgi (AA.VV.) 1981.
13. Rüpke 2001b.
14. See Winter 1998 for the time of Cicero.
15. Wiseman 2000; earlier Altheim 1930.
16. Smith 2000, 136.
17. Cic. *Nat.* 1.3, 1.117, 3.5; see below, Chapter 13.
18. Schultz 2006; Šterbenc-Erker (forthcoming).
19. Liv. 6.41.
20. Rüpke 2005a, 1621–23.
21. E.g., Ulf 1982; Torelli 1984.
22. Rüpke 2006a, 45–49 and Rüpke 2011 for the dating of the Roman calendar; see Rüpke 1995b, 170–72 for diverging Italian calendars.
23. Cornell 1995, 81–92; in greater detail, Meyer 1983.
24. Cornell 1995, 105–8.
25. Smith 1996, 159–60.
26. De Cazenove 2000; Simon et al. 2004, 332–40; 359–68 (A. Comella, J. M. Turfà); Schultz 2006, 95–120; Glinister 2006. For such cult places, see Edlund 1987.
27. Izzet 2000.
28. Hesberg 2005, 84–86.
29. I follow Ziolkowski 1992 in referring the temples (and attested cult places) of the Penates and Vica Pota on the Velia to the third century. A dating of the shrine of Minerva Medica before the late fourth century is unsure, as is that of the Carmentae.
30. Ziolkowski 1992, 187–89.
31. The early identification (Piranomonte 2002) seems not to be tenable.
32. See Bouma 1996 for examples.
33. E.g., Dion. Hal. 1.68.2; later frequently despised, though used: Rawson 1989, 441.
34. Gladigow 2005, 62–84.
35. Cf. Smith 2000, 142, 152.
36. Rüpke 1995b, 261–66; see below, Chapter 7.
37. Bernstein, 1998, 25–30.
38. Bruni 2004, no. 29; photo: ThesCRA 2, tab. 93, no. 15.
39. Liv. 1.35.7–9.

40. Liv. 7.2.1–12.
41. Bernstein 2007.
42. Dion. Hal. 7.72–73.
43. Plin. *NH* 8.65; Fest., 340–342 L.
44. Val. Max. 2.4.7.
45. For criticism, see Beard, North, and Price 1998, 52; for an alternative model, Wildfang 2006.
46. Thus Wissowa 1912, 504–5 with the ancient evidence. For criticism and the alternative model, see Beard, North, and Price 1998, 54–58.
47. Liv. 2.2.1; Dion. Hal. 4.74.4.
48. Rüpke 2008, 24–38.
49. ET Um 1.7; Cl 1.1036.
50. Estienne 2005, 67.
51. Beard, North, and Price 1998, 23–24.
52. Smith 1996, 263–68; his projection of the later priestly system into the regal period (260–62) is problematic.
53. Fest. 439.18–22 L.
54. Rüpke 2000b.
55. Smith 1996, 316, referring to Zaccaria Ruggiu 1992, 361–401.
56. Rüpke 2008 for details.
57. Tac. *Ann.* 1.54; *Hist.* 2.95.
58. Fast. Praen. 19.3.
59. Ov. *Fast.* 2.21–22.
60. Wissowa 1912, 516–18.
61. Wissowa 1912, 509 pointed to the easy substitution of the *pontifex maximus* by his colleagues.
62. Cic. *Leg.* 2.48.
63. Macro. *Sat.* 1.15.9–12.
64. Gell. 15.27.1–3; Rüpke 1995b, 214–21.
65. The latter is stressed by Smith 1996, 307. Linke 1995, 149–51, too, relates this process to the (early) Republic.
66. See Linderski 1986 for individual and collective duties and powers.
67. Cristofani 1995; Woudhuizen 1996; Rüpke 1999.
68. Rüpke 1995b; the codification is redated from the period of the *decemviri* (ten men), i.e., mid-fifth to the end of the fourth century in Rüpke 2011. On Claudius, see Humm 2005.
69. Smith 1996; for the sources of the “conflict of orders,” see Eder 1990, 92–217.
70. Hölkeskamp 1987; Rüpke 1990.
71. See Cancik 2007.
72. Orlin 1997; Ziolkowski 1992.
73. This hypothesis is argued in Rüpke 2006d.
74. See Rüpke 2007b, 24–38, 54–61.

CHAPTER 2. INSTITUTIONALIZING AND ORDERING PUBLIC COMMUNICATION

1. See Goldberg 2007 and 2010 for the specific features of Roman dramatic production; for the architectural dimension, see Wallace-Hadrill 2008, 149–69.
2. See Zorzetti 1990.
3. See Gabba 1984b; de Robertis 1974, 1981.
4. Thus Wiseman 2000.
5. Linke 1995.
6. In detail, Hölkeskamp 1987; Rüpke 1995a.
7. For the notion, see Humphrey and Laidlaw 1994; Bell 1992.
8. Extensively on the Senate: Bonnefond-Coudry 1989; Talbert 1984.
9. See Rüpke 1995b, 248–49.
10. Thus Cic. *Brut.* 61ff.
11. In order to avoid anachronistic notions it should be stressed that even by the time of Cicero published speeches were not seen or read as instruments disseminating political “ideas” (Eich 2000, 162–64).
12. Rüpke 2005a, 1493–97.
13. See below, ch. 7, p. 161.
14. Fest. 47 L; see Paulus 1997; for the development of courts replacing the jurisdictional power of popular assemblies, see Achard 1991, 69.
15. *CIL* 1² 581.
16. Jehne 2006. Millar (1998, 223) arrived at a figure of 20,000 present at decisive moments using all available space in the Forum.
17. See briefly Farney 2007, 12–25.
18. For that purpose, see the work of Jehne (e.g., 2003), Flaig (e.g., 2003), or Hölkeskamp (2006a); cf. Millar’s (2002, 6) stress on the importance of the notion of the sovereignty of the people.
19. David 1992.
20. Flaig 2003, 117f.
21. Achard 1991, 73–81 for the enlargement of this “island” of argumentation.
22. See Bablitz 2007 for the setting.
23. Central are Livy 7.2.1–3 and Val. Max. 2.4.4; thereto P. L. Schmidt 1989; Bernstein 1998, 119–29.
24. For the dating, see Cic. *Brut.* 72 (for the tardy age determination of Accius, 72f.) and Gell. 17.21.44f. For further development, see Cancik 1978 for tragedy and Blänsdorf 1978 for comedy.
25. Suerbaum 2002, 99 (*HLL* 1).
26. Blänsdorf (1978, 115) counts twenty-eight annual days of games reserved for theater by the end of the second century, not including extraordinary opportunities. In detail, Taylor 1937.
27. For Mimus, see Rieks 1978; Benz 1995.
28. See Bernstein 1998, 245f.

29. Rüpke 2009.
30. Rüpke 1990, 215–17; Naiden 2006, 219–26.
31. Coarelli (2000, 299) estimated the capacity of the large imperial theaters, the amphitheater and the Circus Maximus, at a total of around 440,000.
32. Hölscher 1984.
33. Ville 1981; see Flaig 2000 for the provincial reception.
34. See especially Flaig 1992, 2003. The criticism of Montanari 2009, 140 against any political interpretation is, however, too far-fetched.
35. See Baroin 2005.
36. See Chapter 5 for the modification of the Roman ritual of triumph in the middle Republic.
37. Manuwald 2000 provides the texts. Staging history posed a number of practical problems (see Erasmo 2004, 52–80). For the exception of the *Octavia praetexta*, see P. L. Schmidt 2000, 2001.
38. Suerbaum 2002, 108 (*HLL* 1).
39. See the exemplary analysis in Flower 2000 of the Bacchic theme in different genres. For the fictitious place of the dramatic scenes, see Dumont 2000. On Greek titles of Roman books Henriksson 1956 remains fundamental.
40. Wiseman 2008, 196–97.
41. See Gilula 1989, 100f. for the restrictions imposed on the theater by Roman magistrates.
42. Stressed by Flaig 2003, 232–35.
43. For the long history of the cult of Bacchus, see Wiseman 2000.
44. Argued in detail by Rüpke 2001b.
45. This thesis was argued variously by Peter Wiseman (e.g., 1995).
46. Moore 1998, 54, even speaks of “hyper-Hellenization” by Plautus.
47. See, however, the decontextualizing piecemeal political interpretation of tragedies by the Roman audience as shown by Stärk 2000.
48. Habinek 2005, 53; for the language, see Jocelyn 1967, 39, 43.

CHAPTER 3. CHANGES IN RELIGIOUS FESTIVALS

1. Reconstructed in Rüpke 1995b, 40 on the basis of Mancini and Gatti.
2. See Orlin 1997.
3. See Rüpke 2004, 220 n. 39 for references.
4. Fest. 372.8–12 L; Ov. *Fast.* 1.56, 587; Macrobian *Sat.* 1.15.16.
5. Lydus *Mens.* 4.49; chronograph of 354; *Inscr. Ital.* 13.2.243.
6. Ov. *Fast.* 3.523–42. Piranomonte’s 2002 identification of an architectural structure has, however, been questioned.
7. Enn. *Ann.* 1, test. 51 Skutsch; Liv. 5.50.4, 5.52.11; Plut. *Quaest. Rom.* 53.
8. Main sources: Fest. 190 L; Paul. Fest. 246.21–24 L, 71.20–22 L; Plut. *Quaest. Rom.* 97; Polyb. 12.4b.1–3; for a detailed analysis, see Rüpke 2009.

9. See Rüpke 2005a, 1419–39 for the equivalence of normal and priestly colleges.
10. Rüpke 2007b, 196; Mart. 4.66.3, 8.64.2–4, 9.52.2, 10.87.1.
11. On the phrase of Giorgio Pasquali in 1936 see Cornell 1995, 208–9.
12. Cornell 1995, 207.
13. See Guettel Cole 1993, 34 for the Dionysiac procession in growing Athens. For (late republican) Rome and the political functions of processions, see Hölkeskamp 2006b and 2008.
14. Cato *Agr.* 141.
15. Liv. 21.62.7, 35.9.5, 39.22.4; Tac. *Ann.* 13.24; *Hist.* 1.87 (see Wissowa 1912, 391, no. 4 for further references).
16. *Amburbium*: Strabo 5.130; Terminalia: Ov. *Fast.* 2.679–84; see Rüpke 1990, 33.
17. See Rüpke 1998b, 203–6.
18. See Rüpke 1990, 217–23 for the evidence and its historicity.
19. Bernstein 1998, 254–67, esp. 260ff. For the choice of Fabius, see Gabba 1991, 135.
20. Bernstein 1998, 117–18, 50–78; Liv. 1.35.7–9.
21. Flower 1996.
22. Dion. Hal. *Ant. rom.* 7.72.1–2, 5, 6, 10, 13, 15 (trans. E. Cary, Loeb Classical Library).
23. See Rüpke 2010.
24. See Itgenshorst 2005.
25. See, e.g., Hölscher 2001.
26. See Künzl 1988 and Bodel 1999 for the optical impression (the latter for the funeral procession).
27. Liv. 40.19.5; 40.37.3.
28. See Nilsson 1945.
29. Ov. *Ars am.* 1.89–228; *Am.* 3.2.43–58.
30. Trans. Henry Thomas Riley (Perseus Project).
31. See Rüpke 2004 for cultic groups.
32. See the sequence in Gell. *NA* 2.24; Sauerwein 1970; in the context of a “consumer revolution” discussed by Wallace-Hadrill (2008, 315–31).
33. Rüpke 2005b, 1423, 1436; see Macrob. *Sat.* 3.13.10–12.
34. *Ibid.*, 102f.
35. For the terminology of *sacer*, see Santi 2004.
36. See Rüpke 2000a, 2001b; Habinek 2005, 42.
37. See Liv. 34.54.3–7. On the differing dates in Livy, see Ungern-Sternberg 2006, 186–92. It is significant that parallel to the differentiation of the spectators’ spaces the equality stressed in the ritual of the census was circumvented by sending representatives (Pfeilschifter 2002).
38. See Orlin 1997.
39. For Plautinian comments on the triumph, see Itgenshorst 2005, 45–55; for critique of gentilician stemmata claims, see Hölkeskamp 1996, 322, drawing on Cic. *Brut.* 62; Liv. 4.16.4.
40. See Habinek 1998, 66.

41. Goldberg 2010.
42. Demonstrated by Rüpke 1995a.
43. See Šterbenc-Erker 2009 (forthcoming); and more generally Schultz 2006.
44. For the latter, see Cancik 2007.
45. Blänsdorf 1978, 115. See Taylor 1937.
46. Bernstein 1998, 245f.

CHAPTER 4. INCIPIENT SYSTEMATIZATION OF RELIGION IN SECOND-CENTURY DRAMA: ACCIUS

1. Dunsch 2008, who also stresses coherence. Religion in Plautus has been dealt with rather sporadically (see, e.g., Gulick 1896; Oliphant 1911; Middelman 1938, 43–48; Duckworth 1952/1994, 296–300; Toliver 1952; Hanson 1959; Hoffmann 1991; Slater 2000b; for the use of divine characters to inform the interaction of actors and audience, see Moore 1998, 108–25); Terence: Secknus 1927.

2. The lines in question are taken by Dunsch as one of the few examples of theological statements proper.

3. See D. Martin 2004 for the cognitive dimension of the classification as “superstition.”

4. Beard, North, and Price 1998, 109; Vaahtera 2000.

5. Tsochos 2011 (Forthcoming).

6. Altheim 1930, 1931a,b, 1932; Norden (1939) also argues along this line in the late, printed version of the manuscript. For the reconstruction of this text, see Rüpke 1993: 15–28.

7. Cf. also *Ann.* 4f. D with the immediate succession of *Saturno* and *Cronia* in a stage of the Greek cultural history, which is supposed to be the approach for Roman parallels (*Ann.* 8f.). For the presence of the cult of Dionysus and his dramatical institutions, see Wiseman 2000; cf. Gould 2001, 269ff.

8. For the continuity of Decius to the *Aeneades*, see Janssen 1981, 380f.; and Dangel 1995, 375.

9. Koch 1937.

10. Accius *Inc. fab.* xli R = xxxv D = Pompeius *Gramm.* 5.187 Keil.

11. Thus Hölkeskamp 1999.

12. For the mechanisms and the results, see the lengthy discussion in Mora 1999.

13. See also v. 6: *Noctu sum in caelo clarus atque inter deos.*

14. Exposed by Albrecht (1992, 116), who pays no detailed attention to historical contexts but contents himself with the history of ideas in a line from Epicurus to Lucretius.

15. The verse cited is from Cic. *Nat.* 3.79.

16. Vahlen puts the pair of verses before the *nam* sentence; Jocelyn puts it after.

17. Enn. *Scaen.* 316f. Vahlen = *Trag.* 269 Jocelyn; recorded in the second, divination-critical part of Cicero's *De divinatione* (2.104).

18. Here a Greek original is very likely: see Eur. *Phoen.* 631, which uses a simple *theōn*.
19. Nonius cites this text twice: once on *suppliciis* (Non. 398,22 M = 640L); the other time on the form *sanctitudo* instead of *sanctitas* (Non. 174.1–3 M = 255 L).
20. Habinek 1998, 34–68.
21. See, e.g., Cic. *Nat.* 1.116, 2.5; *Red. Sen.* 34; *Off.* 2.11; see Rüpke 2007d.
22. 308 R = 147 D (from Non. 233.25 M = 347 L). Cf. 450 R = 517 D, which relates the terms *cor*, *ira*, and *amentia* to each other.
23. Cf. the description of winter in 412f. and 566f. R = 486f., 242f. D.
24. Cf., e.g., Enn. fr. 31 Courtney = *Var.* 9–12 V.
25. For the text and the implicated image, see Dangel 1995, 379f.
26. On prodigies see MacBain 1982 (with Rosenberger 2005), and Belayche et al. 2005; Rosenberger 1998.
27. 209f. R = 37f. D; s.a. *Aeneadae* XI D.
28. Enn. *Scaen.* 319–23 V: *Superstitiosi uates impudentesque harioli . . . quibus diuitias pollicentur, ab iis drachumam ipsi petunt*. The bias of this part of the speech by Telamo is clearly non-Roman at this point. Cicero, who has transmitted this passage (*Div.* 1.132), demonstrates how to defang the criticism by referring to the practice of the underclass.
29. Beard, North, and Price 1998, 110.
30. For dating, see Gabba 1969, 377.
31. Naturally the theme “divination” just concerns an offshoot in contemporary discussion and in the *praetexta*. For an attempt to place this material within that wider discussion, relating to the history of the constitution, see Gabba 1969.
32. For a detailed study (one convincing in its essence) concerning especially the history of motives, see Fauth 1976.
33. 663–65 D. For the difficulty of the preserved text, see Manuwald 2001, 227, no. 252. I thank her for thinking about the text again. The metric impulse at the beginning of this trochaic septenarius is easily removable by emendation of the transmitted *mirandum* into *mirum* (Manutius). After the accumulation of the previous verses, the coexistence of the adverbs *temere* and *improuiso* does not seem to be an objectionable stylistic fact, and it is without any problem as regards content. After having used *ea* in the leading position before, the subject is grammatically and factually unambiguous; the particular reflexive use of *offere* without any other explicit object stresses the demonstrability of the “psychic” process. The punch line of that passage is removed by the many editors, including Manuwald, who supply *di*, “gods,” for this changes the meaning dramatically and eliminates any possibility of an adequate interpretation, as offered by Walde (2001a) or Manuwald, for example.
34. For an introduction to theories of dreams in antiquity, see Walde 2001b, though the passages quoted here are not there discussed nor is any historiography supplied.
35. *Curc.* 253–73; *Merc.* 225–70; *Mil.* 380–94; *Rud.* 593–612.
36. Plaut. *Rud.* 593–95; the first two verses correspond to *Merc.* 225f.
37. On the identity of the speaker of these lines, see Manuwald 2001, 227.

38. This concerns positively the dream of Hecuba in *Alexander* by Ennius (*Trag.* 50–61 Jocelyn) or the fragments of dreams in the Ennianic *Epicharmus* (fr. 35 Courtney = *Var.* 45 V).

39. Thus Walde 2001a, 235.

40. See also Fauth 1976, 485; because Fauth concentrates completely on the common Mediterranean and Etruscan backgrounds of an old traditional matter, the involvement in contemporary practices of divination is not investigated by him at all.

41. See above for the *Euhemerus* with notes.

42. See *Pragmatica* 13 Courtney = *Gramm.* 20f. D.

43. *Trag.* 314 R = 143 D: *Probis probatum potius quam multis fore.*

44. See Slater 2000a.

CHAPTER 5. RITUALIZATION AND CONTROL

1. The genesis and history of the triumph have been studied in detail by Versnel (1970; and repeated in his criticism of my hypothesis on the *triumphator* in 2006) and Bonfante Warren (1970, 1973). Pietilä-Castrén (1987) and Orlin (1997) discuss the ritual in connection with the dedication and building of temples; cf. Ziolkowski 1992 for a survey of the archaeological data relating to mid-republican temples. Hölkeskamp (1987; elaborated in 1993) and Rüpke (1990; more pointedly in 1995d), the former in his work on the formation of the Roman nobility, the latter in studies devoted to the religious construction of war in ancient Rome, explore the triumph as one of the means by which a highly competitive aristocracy managed to focus its internal rivalries on strictly controlled fields of public activity. Cf. the discussion following Rosenstein's *Imperatores victi* (1990b). See Rosenstein 1990a; North 1990; Harris 1990. Cf. also Hölkeskamp 1994. Itgenhorst 2005 has stressed the conflictual dimension of the republican triumph, the discrepancy of credibility and power from contemporaries of Plautus down to Augustus, deepened by Bastien 2007. Beard 2007 touches upon the history of the triumph before the late Republic but does not come to final conclusions regarding the problems discussed in this chapter.

2. Stressed by Hölkeskamp 1987, 219.

3. Cf. for this dimension Beard 2003; Östenberg 2009.

4. Stressed by Rüpke 1994.

5. See Orlin 1997, 66–73 for possible criteria and strategies.

6. Beard, North, and Price 1998, 143.

7. For the embodiment of dead ancestors, see Flower 1996, 102.

8. E.g., Hölcher 2001, 204. Cf. Hölcher 1978, 325, which mentions only private honorary statues.

9. Flower 1996, 341–43. See already Hölcher 1990, 76.

10. Likewise, there are no convincing parallels available that could explain the innovation (Flower 1996, 343–51).

11. Versnel 1970, 132–63; Rüpke 1990, 226–30.

12. E.g., Martini 2008; more cautious: Schipporeit 2008 for the late Republic.
13. Rüpke 1990, 225.
14. Emphasized by Versnel 1970, 74–77.
15. Rüpke 1990, 230–33. The interpretation is elaborated in detail by Köves-Zulauf 1972, 122–49, in his analysis of the words that a slave, standing behind the *triumphator*, addressed to the general. A slave’s admonition “Remember that you are mortal” is already reported for Philip II of Macedon (Aelian *Var. hist.* 8.15).
16. See Varro *Ling.* 6.68, which also already draws the connection with the triumph. For the New Year festival, see Versnel 1970, 11ff., 201ff. The basics of Versnel’s argument are accepted by Coarelli (1988, 414ff.) in his analysis of the “archaic triumph.”
17. Extensively discussed in Versnel 1970, 101–15, 284–303.
18. Suet. *Aug.* 94.
19. *Triumphator*: Liv. 10.7.10 (*ornatus Iouis*, no specific reference to the dress is detectable); Serv. Auct. *Ecl.* 10.27 (quoting Juvenal in referring to the *tunica palmata*); *pompa circensis*: Iuv. 10.36–43 (*vestis*); Tert. *Cor.* 13.1 (*ab Ioue insignes* syntactically separated from *palmatis togis*). There are no sources that explicitly describe the leader of the *pompa* in the *ludi Romani* as wearing the *ornatus* or *uestis triumphalis*. Yet the inference *a minore ad maiorem* from other games (like the *ludi Apollinares*) to the most prestigious games is rightly universally drawn (for this argument, see Versnel 1970, 130).
20. *Triumphator*: Plin. *NH* 33.11; *pompa circensis*: Juv. 10.39–40; Tert. *Cor.* 13.1.
21. I accept Versnel’s refutation of Mommsen’s theory (accepted by Wissowa 1912, 452, for example) that originally the *ludi* were simply the latter part of a triumph.
22. Versnel’s 1970, 73f. argument for such a strong interpretation of the connection of the *uestis* with the statue of Iuppiter is convincing.
23. Even if adducing the *processus consularis* as well, Iuvenal (10.28) is concentrating on the game-leading praetor.
24. It should be noted that Dionysios of Halikarnassos in his detailed account of the *pompa circensis* (7.70–72) does not even mention the strange figure of the leading magistrate, whom he was obviously unable to fit into his “Greek” interpretation of the ritual. If the magistrate had been play-acting Iuppiter/Zeus, on the other hand, this would have been an easy task.
25. See the previous note.
26. Thus Versnel 1970, 77–78; cf. Waldner 2000, 74–75. In the case of the *triumphator* an additional association, or rather contrast, with the departure of the general and his use of a spear to open hostilities might be implied. See Rüpke 1990, 105–8.
27. Cf. Bonfante Warren 1970, 59.
28. Plin. *NH* 34.20; for the archaeological evidence, see Bernstein 1998, 53–57.
29. Hence Versnel (1970, 78) gives no weight to the *quadriga*. Given that his main interest is the similarities of the two rituals, which he takes to have developed from a common Etruscan prototype, it is perhaps unsurprising that he does not systematically explore the equally tangible differences.
30. Versnel 1970, 78–82.

31. Plin. *NH* 33.111f.; Serv. Auct. *Ecl.* 6.22, 10.27; Isid. *Orig.* 18.2.6; Ioan. Tzetzes *Epist.* 97 (= Dio 6), *Chil.* 13.35–48 Leone. For the statue, see Plut. *Quaest. Rom.* 98.

32. Beard (2007, 232) questions the usual application of the color to the *triumphator* without further argument.

33. See Versnel 1970, 78–81; tentatively, Bonfante Warren 1970, 54.

34. Plin. *NH* 35.57. For the place, see Coarelli 1988, 81.

35. Thus already Wissowa 1912, 127 and Wunderlich 1925, 63, drawing on Plin. *NH* 35.157 and 33.111–12. Despite the fact that the impetus for Wunderlich's thesis came from Ludwig Deubner, the book itself tends to reject "primitive" interpretation and to put emphasis on contemporary sources rather than ethnographic parallels, thus acknowledging the influence of the referees Otto Kern and Georg Wissowa. For further references to the application of red color to statues, see Versnel 1970, 79 n. 5 (implying different interpretations).

36. See, e.g., the findings from the temple on the Velia displayed in the Museo Capitolino at Rome. I am grateful to Laetitia La Follette for stressing this point.

37. Klearchus, tyrant of Herakleia in the middle of the fourth century, deliberately dressed himself as a statue of a god—and painted his face red. See Versnel 1970, 80, without the explanation that Klearchus wished to imitate a statue.

38. The arguments are given by Köves-Zulauf (1972, 140).

39. See Wallace-Hadrill 1990, 151–53.

40. See Hölscher 2001, 187–88; Hölscher interprets the erection of a statue as the moment in time when current, functional knowledge was transformed into an element of historical memory and thereby afforded new forms of recognition and prestige. See also Hölkeskamp 2000; Sehlmeier 2000.

41. Sehlmeier 1999, 134. The connection had already been formulated less strictly by Lahusen (1983, 67), who identified a statue given to M. Furius Camillus as a *triumphator* (over Volsci and Aequi) after 389. A discussion of these theses is lacking in Hölscher 2001, 194–98, which deals with honorific statues only as regards their placing along the route of the triumph. Wallace-Hadrill 1990, 173 strongly opposes the postulate of a regular granting of statues by the Senate as a projection of imperial authors.

42. Liv. 8.13.9

43. See Scheer 2000.

44. Plin. *NH* 34.17. Hölscher 1978, 328; Sehlmeier 1999, 22.

45. See Hölscher's (2001, *passim*) criticism of Sehlmeier's attempt to reject every early statue outside the postulated mainstream development. Wallace-Hadrill (1990) is skeptical, too.

46. Cf. Hölscher 2001, 202.

47. Fest. 120 L; Varro *De vita p. R.* fr. 72 Riposati; for the following course of action, see Hölscher 1978, 319; Coarelli 1985, 87–119 (for the statues and the ruling on the *faenatores*); Flower 1996, 341. More generally, Gabba 2000, 17.

48. See below and Tanner 2000, 25ff. for the late Republic.

49. Hölscher 1978, 322–24; "Beuteanathem"; Sehlmeier 1999, 113–16; more general: 128–29, 280.

50. See Bernstein 1998, 58.
 51. For a further argument from the Hellenistic models, see below.
 52. See Cic. *Phil.* 5.41; Lahusen 1999.
 53. Dio 43.14.3–7. See Tanner 2000, 28; and, for late antiquity, Niquet 2000, 77–78.
- For chryselephantine statuary in general, see Lapatin 2001, 120–33.
54. Tanner 2000, 26.
 55. See Wallace-Hadrill 1990, 162–65.
 56. Versnel 1970, 170–74; wrongly, Gruen 1996, 220–22.
 57. See Rüpke 1990, 215–17; in general: Halkin 1953; Freyburger 1988; Hickson-Hahn 2000.
58. For the latter point, see Hölscher 1990, 76.
 59. Rüpke 1990, 97–124.
 60. For the *spolia opima*, see Rüpke 1990, 217–23; the (Varronian?) text of the *lex regia* is given by Fest. 204 L. Cf. Plut. *Marc.* 8.5. The addressees are Iuppiter Feretrius, Mars in Campo, and Ianus Quirinus, respectively. See Gabba 2000, 17 for the Roman imagination of the *leges regiae*.
 61. This brief sketch basically agrees with the reconstruction of the pre-Etruscan form of the triumph in Bonfante Warren 1970, 50–56.
 62. Versnel 1970, 165–68; Rüpke 1990, 217–28; for Augustus’s interest in reintegrating his own military successes of the civil war, see Itgenshorst 2005, 221–23.
 63. For the concept of senatorial control, see Rich 1976; Hackl 1982 for the later Republic; Rüpke 1990, 120–24.
 64. Itgenshorst (2005) stresses the conflictual character of the republican triumph.
 65. See Weinstock 1937, 17–18. Favro 1994 stresses the enduring impact of the monumentalized processional route.
 66. Dion. Hal. 7.72.11–12.
 67. Stewart 2003, 81–85, 103–4, 258–59.
 68. See Hölscher 1978, 323–24 on monumentalization.
 69. For republican arches, see Maria 1988, 31–53. See *Lexicon topographicum urbis Romae* 4 (1999): 353–72 s.v. *statua* for the range of realizations. Plattus 1983 stresses the ritual framing of the arches of the center of Rome.
 70. Hölscher 1978, 343.
 71. See Plin. *NH* 34.20: *Non uetus et bigarum celebratio in iis, qui praetura functi curru uecti essent per circum*.
 72. Dupont 1986, 31; for the triumph as pinnacle of this, 25–26.
 73. Orlin 1997, 68–70.
 74. See Tac. *Agr.* 40.1: *triumphalia ornamenta et inlustris statuae honorem et quidquid pro triumpho datur*. More precise is Dio 55.10.3, naming the bronze statue as a regular feature already for Augustan times. The term was new: Suet. *Tib.* 9.2. It should be noted that at the same time the use of the *biga* was (occasionally?) denied to the game-leading magistrates, too: Tac. *Ann.* 1.15.

75. August. *Gest.* 4. See also Nickbakht 2005.

76. For the impression of the latter as living images, see Brilliant 1999. See Fless 2004, 43 for a catalogue of representations. Plutarch (*Quaes. Rom.* 111) conceptualized the Flamen Dialis as a “living statue” (*émpsychon kai hieròn ágalma*), as pointed out by Scheid 2004.

77. See Hölscher 1978, 341; cf. Holliday 2002.

78. Athen. 5.196a–203b, quoting Callixenus of Rhodes; Hesberg 1989, 65ff. Only in his very last sentence does Hesberg point to the Roman reception. See Rice 1983 for a detailed analysis of the procession.

79. Aemilius: Diod. 31.7.9–12; Plut. *Aem. Paul.* 32–34; Cn. Pompeius: App. *Mithr.* 116f.; Plut. *Pomp.* 45. See Igershorst 2006 for a judicious view of a second-century “Hellenization” of the Roman triumph that is due more to the hyperbolic description of “Hellenistic” literature than to a fundamental change in the concept of the triumph.

80. For the terminological problem, see Versnel 1970, 72–78 (with the opposite result).

81. See Fest. 228 L.

82. See Hölscher 1978, 349.

83. Östenberg 2009, 7–12.

84. Hölscher 1978, 349; Sehlmeier 1999, 67–74.

85. Hölscher 2001. I am grateful to Karl Galinsky for further reflexions on “memory”.

86. As regulated in the *Senatusconsultum de Gn. Pisone patre* ll. 74–82: *utiq(ue) statuæ et imagines Cn. Pisoni patris, quæ ubiq(ue) positæ essent, tollerentur; recte et ordine facturos qui quandoq(ue) familiae Calpurniae essent, quiue eam familiam cognatione adfinitateue contingerent, si dedissent operam, si quis eius gentis aut quis eorum, qui cognatus adfinitus Calpurniae familiae fuisset, mortuos esset, legendus esset, ne inter reliquas imagines, exequias eorum funerum celebrare solent, imago Cn. Pisoni patris duceretur, neue imaginibus familiae Calpurniae imago eius interponeretur.* See Flower 1996, 24–31; Arce 1999, 329; for the Republic, see Varner 2004, 16–20.

87. Verism, which is much more dominant in Roman portraits than in Hellenistic ones, and not a casual development of style, has been interpreted as an expression of the subordination of the hardships of individual human lives to service to the *res publica* (Gruen 1992, 170; for the earlier period, see Hölscher 1978, 340), but Tanner 2000 has made a case to place the development of the veristic style since the second century within the institutional context of Roman patronage, especially as extended to foreign citizens. Kuttner 1993 draws attention to the peculiar Roman practice of adding a figurative base to statues to stress the value orientation of the representation as a whole.

88. Crawford 1996 nos. 242/1, 263/1 and later. See Sehlmeier 1999, 181. For this process in general, see Meadows and Williams 2001, 37–38.

89. Plut. *Quaest. Rom.* 79; Serv. Auct. *Aen.* 11.206.

90. See Plin. *NH* 34.25 with Flory 1993, 288–89 and Val. Max. 1.8.11 for Claudia Quinta.

91. The sources are given by Flory (1993, 295–97). Flory herself does not pay attention to the special emphasis given to triumphal associations but stresses (rightly) the parallel construction of the women honored as valorous men.

92. For earlier commemorative practices regarding women, see Flower 2002a.

93. Flower 1996, 341–43. If my thesis is tenable, Hölscher's (2001, 205) claim that public gentilician representation in the form of statues did not start before the middle of the second century would have to be modified, but would stress the importance of ritual "performances" of statues. Bianchi's (1994) discussion remains without clear results.

94. Polyb. 6.53 (likeness: 6.53.5). For the argumentative interests of Polybios in this passage, see Dubuisson 1985, 276.

95. Drerup 1980, 119, 127; contra Lahusen 1985, 263–65. It would be interesting to look for the *Wirkungsgeschichte* of Polybios's description of early modern aristocratic and monarchic funeral practices (cf. Grimes 1995, 80).

96. For the practice of fictive genealogies, see Dondin-Payre 1990, 58–59, 66–72; and Montanari 2009, 50. Such fictions did underline the normative value of genealogy, as rightly noted by Hölkeskamp (1996, 322).

97. Flower 1996, 53–56; contra Lahusen 1983, 113–27; 1985; still accepted by Badel (2005, 31–34). Critically already, Boëthius 1942.

98. Flower 1996, 70ff.

99. Hölscher 1978, 325. However, the argument should be built on sources like Ennius (e.g., *Scipio* = *Var.* 1–2 Vahlen; cf. Liv. 38.56.22; Val. Max. 4.1.6) or Cicero, rather than on Pliny's book dealing with metals (*NH* 34.15ff.); cf. Drerup 1980, 127.

100. For the constructive character of the Roman *gens* and *familia*, see Corbier 1990; Dondin-Payre 1990.

101. Hesberg 1989. A genealogical row of figures might have been part of the tomb of Nikokreon, king of Salamis, stemming from the end of the fourth century (1989, 67f.).

102. *Ibid.*, 77. This is one of the elements that argue—against Sehlmeier 1999—for a priority of the Greek form, and hence a process of reception, as shown for a wide range of elements by Hölscher (1990). What is important is not the temporal priority of invention, but the different use to which these inventions (and even their producers, Greek artists; see Gruen 1992, 140) are put. Heinrich Drerup, too, believed that he had identified pure Roman forms and institutions by means of the wax mask (1980, 120). For the Greek use of masks, see, e.g., Carter 1987; Frontisi-Ducroux 1991; for other Roman practices, see Meuli 1955.

103. The "Kastengräber" of libertines, showing reliefs of persons as if looking out of a window ("Fenstergucker"), are interpreted by Lahusen 1985, 283–84 as an even more economic form of presentation.

104. See Niquet 2000, 26–27 for the fourth century C.E. In neither case, however, do we detect traces of ancestor cult, as I was reminded by Andreas Bendlin.

105. Val. Max. 8.15.1f.; App. *Iber.* 89.

106. Flower 1996, 48–51.

107. See Toynbee 1971, 33–42 and, concentrating on the funerary rites, Deschamps 1995; cf. Bremmer 1994 and Sourvinou-Inwood 1995 for Greece, Briquel 1987 for Etruria.

The problem is solved by Kierdorf 1991, 84–85 by stressing the close relationship between living and dead in Rome, proven in particular by the *pompa imaginum*. Dupont 1987, 171 had solved the problem by maintaining that the masks did represent the living part of the dead, without any defilement. She was followed in principle by Belayche 1995, 160.

108. Contra Montanari 2009, 71–87, who stresses the attempt to present living gods and ancestors.

109. Dion. Hal. 7.72.13.

110. Polyb. 6.53.8.

111. Suet. *Vesp.* 19.2: *Sed et in funere Fauor archimimus personam eius ferens imitansque, ut est mos, facta ac dicta uiui, interrogatis palam procuratoribus, quanti funus et pompa constaret, ut audit sestertium centiens, exclamauit, centum sibi sestertia darent ac se uel in Tiberim proicerent.*

112. Stressed by Bodel 1999.

113. Fless 2004, 50.

114. See *ibid.*, 271 for Augustus's attempt to monopolize this ritual as well.

115. See Flory 1993 *passim*.

116. See Hölkeskamp 1996, 322 for examples, such as Cic. *Brut.* 62; Liv. 4.16.4.

117. Gordon 1979; Scheer 2000; especially for Rome: Rüpke 2004, 78–82.

118. Cic. *Verr.* 2.2.158: *Non crederem hoc de statu is nisi iacentis reuulsasque uidissem, propterea quod apud omnis Graecos hic mos est, ut honorem hominibus habitum in monumentis eius modi non nulla religione deorum consecrari arbitrentur.*

119. See Gregory 1994, 98–99; Stewart 2003, 31–33. Orlin's 1997, 71–72 characterization of statues as a nonreligious alternative to victory rituals is misleading.

120. See Tanner 2000 and Niquet 2000, 77 for many literary and epigraphic instances connecting the honor of a statue with notions of eternity. Texts would offer even more possibilities (see Feldherr 2000), but they would not be as accessible to the general public as poets usually supposed.

121. Stewart 2003, 92, 102.

122. See de Jong and Hekster 2008.

123. Thus Sehlmeier 1999, 278–84.

124. Barini 1952; Rüpke 1990, 208, 234.

125. Lahusen 1985, 267, with an argument *e silentio* that has to be modified on the basis of the *Senatusconsultum de Cn. Pisone patre*; Bodel 1999, 271.

126. For the many dramatic elements of the complex funeral ritual, see Arce 1999, 331, following Scheid 1984. Hickson 1991, 129–30 showed the triumph to be an indicator of possible successors.

127. For the reform of the compital cult, see Fraschetti 1990, esp. 331–60; Rüpke 1998 and 2005a, 1501–1516.

128. Hickson 1991, 133–34; for details, see Siebler 1988; Ganzert 1988.

129. McCormick 1987, 99–100.

130. August. *Gest.* 4. See Itgenshorst 2004, 458 for the Augustan canonization of the past.

131. See Rüpke 1990, 201; for the “theology of victory,” see Heim 1992. For further functions in imperial theology, see Montanari 2009, 58–61.

132. McCormick 1987, 112, 116.

133. *Ibid.*, 87, 90.

134. SHA *Hadr.* 6.3.

135. Amm. Marc. 16.10.9–10; cf. Stewart 2003, 112 and 152 with a direct reference to processions in general.

136. *Parataseis syntomoi chronikai* 56, quoted in Bauer 2001, 32.

137. See Clark 2007 for a detailed analysis and Spannagel 2000 for forms of representation.

CHAPTER 6. WRITING AND SYSTEMATIZATION

1. See Achard 1991, 55–63 for techniques and materials.

2. For the ritual communication implied, see Flaig 1995; for the *laudatio funebris*, see Kierdorf 1980; Gentili and Cerri 2005, 25–30.

3. Achard 1991, 89.

4. See Rüpke 1998b.

5. Plut. *Quaest. Rom.* 59 (*Mor.* 278e).

6. Bonner (1977, 34ff.), who also comments on the problematic chronology of Plutarch.

7. A freedman of a Sp. Carvilius is named as the first organizer.

8. Here I follow Gabba 2000, 19–21. On shifting attitudes to Greek universalistic culture at this time, see Veyne 1979, 10.

9. Cf. for Athenian developments Thomas 1989.

10. For the reconstruction of the Varronian scheme (probably from the chapter on games in the *Antiquitates rerum divinarum*) and for the sources, see P. L. Schmidt 1989. Schmidt also demonstrates the plausibility of Varro’s basic position (83).

11. Liv. 7.2.7.

12. See Paul Fest. 76.6–8 L.

13. Goldberg 2005, 53.

14. The *libri lintei* were historiographic fictions rather than historical documents (cf.—contra Ogilvie 1958—Frier 1975; Pinsent 1975; Ridley 1980; Mora 1999 is radically skeptical).

15. For this date, based on the history of the *collegium pontificum*, see Rüpke 2008, 33.

16. Cf. Rüpke 1990, 116 for legates.

17. See Rüpke 1998b.

18. For details, see Zorzetti 1990; for criticism, Rüpke 2000a.

19. See in more detail Rüpke 2001b.

20. Leo (1913) 1967, 56.

21. Differently, Leo, *ibid.*, 73, referring to Suet. *Gramm.* 1; but also Fedeli 1983, 77.

22. Horsfall 1994, 74; cf. Gentili and Cerri 2005, 16 n. 16.
23. In the light of a single better-known text, the Ennianic *epos*, the reflections of Zorzetti (1990), who plays the praising *carmina* off the narrative epic poem, become invalid.
24. Naev. *Carm.* fr. 4 Strzelecki = 8 Blänsdorf. Cp. M. Barchiesi 1962, 277–81.
25. Suerbaum 1992: 169 and passim.
26. Ibid, 167.
27. Cic. *Cato* 16: *exstat*, i.e. still visible; *Brut.* 61.
28. This theory was developed by H. Jordan in his edition of Cato of 1860 on the basis of Gell. 6.3.7.
29. Plin. *NH* 7.139–141.
30. Fest. 446.26–448.4 L. Other, similarly named groups are also mentioned, but their identification is controversial (see also Cancik 1969; Rüpke 2011, 105–107). The conjunction of authors with actors refers to the organization of so-called Dionysiac artists, the earliest group of actors in Rome (Horsfall 1976, 81). The structure of this organization could well have changed during the second century (see P.L. Schmidt 1997; the study by Romano 1990 does not help).
31. Liv. 22.57.3 (see further the notes of Wissowa 1912, 519).
32. For further discussion on this point, see Rüpke 2000a.
33. On burial rituals and their communicative function, see Kierdorf 1980; Flaig 1995.
34. Rüpke 2001b, accepted by Habinek 2005, 40; cf. Goldberg 2005, 153f.
35. Wandhoff, 1996, 109ff. Especially with regard to media-historical issues, students of Latin epics can learn much from medievalists. See for example Vollrath 1981.
36. Cf. Gruen 1992, 223: “The effort to define a place in the larger cultural world of the Mediterranean took on special significance in an era when Roman power and authority expanded in the East. Rome strained both to participate in that cultural world and to exhibit its own primacy within it.”
37. This conclusion follows independently of the quite intriguing question of how history and mythology were interconnected: the manner of connection is important to literary history, but the fact of connection is the vital issue for intellectual history. On the closeness of the connection, see Hübner (1972), who, like Büchner (1967), shows that there cannot have been any breach, for example in terms of style, between the two parts. Cf. M. Barchiesi 1962, 328f.
38. Quoted by Polybios (12.4b.1–3)
39. This is emphasized by Gruen 1992, 44f.
40. This formulation is used of the medieval context by Wandhoff (1996, 109).
41. This is not to question whether the plays and the dramas they conveyed played a substantial role in passing down and disseminating (mythico-)historical knowledge. At the same time, the exclusivity of the role ascribed to this particular path for the transmission of historical knowledge by Wiseman (1994a; 1995, 133–41) seems exaggerated. See Rüpke 1993.
42. For the value of the latter, see Goldberg 2009, 435.

43. Consider how extensively contemporary history is included even in the “mythological” epics of Vergil and Ovid. See for example A. Barchiesi 1989, 133–38; Gurval 1995; Fox 1996; Fantham 2002.

44. Wandhoff, 1996, 115 regards the intense and intensified historical component in the new epics thus: From this perspective the written text is perceived as a means of expanding the *memoria* of the nobility.

45. This is discussed in detail in E. A. Schmidt 1996.

46. Fr. 21 Blänsdorf = 12 Mariotti; see E. A. Schmidt 1996, 295–97.

47. Frr. 2 and 12 Blänsdorf = 19 and 5 Mariotti; see E. A. Schmidt 1996, 297f.

48. Or even the distanced and ironical adoption of Greek necessities of form, as A. Barchiesi (1989, 123) seems to imply (see also the retraction of this statement [*ibid.*, 124] regarding Ennius).

49. See for example fr. 12 Strzelecki = 11 Blänsdorf (Sibyllen); fr. 13, 28f., 64 Strzelecki = 12, 28f., 34 Blänsdorf; Genealogies: 14, 17, 19, 20, 27 Strzelecki = 14, 15, 22, 24, 27 Blänsdorf. The fact that Naevius addresses Iuppiter in fr. 52 Strzelecki = 30 Blänsdorf as Lucetius refers to the *carmen Saliare* (see fr. 2 Blänsdorf and Macr. *Sat.* 1.15.14), which need not have belonged to the mythical section. See also Feeney 1991, 108ff. on the theological qualities of the Naevian oeuvre; that Feeney ascribes a basically lesser significance to the *theologia poetarum* in Rome seems to me to be a problem of the perspective of the sources used—it is precisely the incommensurability of the various *genera* of the *theologia tripertita* that is a characteristic of this division of labor in thought on religion.

50. Fr. 25 Strzelecki = 25 Blänsdorf refers to regulations on augury (*postquam avem aspexit in templo Anchisa*); also possibly fr. 29 Strzelecki = 29 Blänsdorf; certainly fr. 34 Strzelecki = 39 Blänsdorf. See also the state legislative situation of the division of the army by the consul in fr. 3 Strzelecki = 3 Blänsdorf, and possibly fr. 30 Strzelecki = 65 Blänsdorf on *corona navalis*.

51. See Mora 1999, 19–55; and briefly, Mora in Rüpke 1997b. On the closeness of Naevius to Fabius Pictor, see Bömer 1950.

52. Roman historiography is typical city historiography and as such can more readily be compared to the Atthidographers than to Herodotus. In Rome, it is Gauls (Pompeius Trogus), Greeks (Appian), and Africans (Christians) who write universal history.

53. See Feeney’s splendid study on techniques to organize history in early Roman historiography.

54. Ennius *Ann.* 303f. V = 304f. Skutsch. See also the mention of iteration in Ennius *Ann.* 295 V = 290 Skutsch: *Quintus pater quartum fit consul*.

55. See chapter 11.

56. Ennius *Ann.* 62f. V = 240f. Skutsch.

57. Ennius *Ann.* 122f. V = 116f. Skutsch, regarding Numa.

58. See Mora 1999 for an exhaustive account of the treatment of the *fasti*. On the “fluidity” of historical “knowledge” in oral societies from an ethnographic perspective, see Schott 1968 and Fohrbeck 1970.

59. See Vollrath 1981; for ancient, pre-Roman religions, Schaper 2009 (“textualization”).

60. See A. Barchiesi 1989, 117.
61. Cato *Carm. de moribus* fr. 2 Jordan = Gell. 11.2.5.
62. Paul Fest. 86.20–22 L: *Grassari antiqui ponebant pro adulari. Grassari autem dicuntur latrones uias obsidentes; gradi siquidem ambulare est, unde tractum grassari, uidelicet ab impetu gradiendi.*
63. See the thorough account in Suerbaum 1968, 200ff.
64. For detailed treatment of the *scurra*, see Corbett 1986 and Wiseman 1986, 32–34. This role also was fully differentiated only over time. Initially, in Plautus for example, the term is primarily used for the inappropriate or offensive aspect of an entertaining performance, much like the descendants from this root in modern European languages, such as English *scurrilous*.
65. See Ennius *Ann.* 380 V = 374 Skutsch: *Satin uates uerant aetate in agunda?*
66. See the fundamental study by Ziegler (1966), and after that, for example Schwinge 1986.
67. On Cicero, see Hose (1995), who presents a convincing ordering of the succession of genres as postulated by Ziegler. As a result not least of this work, the characterization of panegyric epic as “characteristically Roman” (Hardie 1983, 39) must be qualified.
68. See Goldberg 2009, 436 for the development of alternatives, i.e., “Hellenistic” epics at Rome.
69. For convergence also in Hellenistic theory of literature, see Fuhrer 1996.
70. Viewing these texts as directed toward an always anonymous audience might explain the fact that dedications in historical works are frequently missing (Fedeli 1983, 102). In contradistinction to texts designed for speech and even those purporting to be so, here there is no privileged principal addressee.

CHAPTER 7. THE PONTIFICAL CALENDAR AND THE LAW

1. Verrius Flaccus *Inscriptiones Italiae* 13.2.111 (Fasti Praenestini on 1 January); Serv. Auct. *Aen.* 8.654 (with the notes from the *Scholia Danielis*, “Servius auctus”); Macrobian *Sat.* 1.15.9–12.
2. Varro *Ling.* 6.28; Macrobian *Sat.* 1.15.12f.
3. Macrobian *Sat.* 1.15.14–16. See also Plut. *Quaest. Rom.* 24; Lydus *Mens.* 3.10 (p. 47 Wünsch). Trümper 1998 shows that the days of the full moon were also the most ancient holidays in Attica.
4. Iuv. 6.442f.; Tac. *Ann.* 1.28.1f.
5. See Rüpke 2011, 34.
6. Cristofani 1995. On the following, see Rüpke 1999.
7. Macrobian *Sat.* 1.15.14; weeks: 1.15.13.
8. An extensive account can be found in Samuel 1972, 42–49. For the 76-year cycle of Kalippos, see Jones 2000.
9. On Greece, see Pritchett 1963, 346; 1999; 2001; on early criticism, see Connor 1987.

10. Macrobi. *Sat.* 1.13.21.

11. Here I follow the arguments of Humm (2000a) against Michels (1967) and her dating; as followed by Rüpke 1995a; see Humm 2005, 455–69 for a summary of the arguments. See now Rüpke 2011, 38–43.

12. On flight, see Plut. *Quaest. Rom.* 63. Intercalation after the Terminalia: Macrobi. *Sat.* 1.13.19; Liv. 34.11.13. See Rüpke 2011, 69–86.

13. Cic. *Att.* 6.1.8; Liv. 9.46.5; Macrobi. *Sat.* 1.15.9.

14. Humm 2005 for details.

15. Humm 2005, 469.

16. Leitz 1989.

17. Whitehead 1986, 185–208.

18. This also was probably originally a holiday that was connected to lunar cycles, presumably the full moon and the new moon. Accordingly, an average of fourteen or fifteen days elapsed between such festivities. Only in the situation of the Babylonian exile, in the sixth and fifth centuries, did a continuous seven-day week arise out of the two Sabbath days per month. In the context of exile in Mesopotamia, as a minority, this regulation may have been aimed at constructing a strong identity as a religiously separate group. Even more than participating in particular feasts, the new structuring of everyday life must have had a distinguishing and alienating effect. This thesis is from Johannes Meinhold and is not uncontroversial. The counterposition is formulated by Andreassen 1972. See also Lasker and Lasker 1984; Goldstein and Cooper 1990, 20f. On the presence of the Babylonian calendar in Egyptian Elephantine prior to the Jewish settlers, see Stern 2000. For the Jewish calendar in general, see Stern 2001.

19. Therein lies the difference from the Jewish reform.

20. Macrobi. *Sat.* 1.16.30.

21. To be precise, they were not made up of an assembly on the ninth day after the Tubilustria, but the assembly actually took place on the tenth. We do not know which ritual acts attached it to the previous, ninth day. We can see very well, however, in the densely commented calendar of the *Fasti Praenestini*, that Caesar, when extending the months to their current conventional lengths, did not insert the extra days between this ninth day and the Calends, at the end of the month, but rather directly before each last day of the month. The cultic connection between the end of the month (the ninth day) and the Calends thus remained undisrupted.

22. See Rüpke 2007b.

23. The comparison with the Jewish developments is revealing. In both Mesopotamia and Rome it was a prohibition, a radical separation in the social use of time, that was the common motive for the (from a contemporary perspective) revolutionary introduction of contiguous weeks. In the one case, priestly groups, under the banner of religion, won for themselves a decisive position, in spite of the loss of their power base in the temple in Jerusalem. In the other case, the position of the priests was newly defined, but under a different banner.

24. *Dig.* 1.2.4, trans. de Ste. Croix.

25. Arguments, but no full line of argumentation, against the historicity of the Twelve Tables can be found in Fögen 2002, 69–79.
26. See Tellegen-Couperus 2006.
27. Gai. *Inst.* 4.16; trans. Gordon and Robinson 1988.
28. Tellegen-Couperus 2006.
29. For Appius, see Cassola 1962; Humm 2005.
30. Varro *Ling.* 6.30 and 53.
31. *Ibid.*, 31; Ov. *Fast.* 1.49–52.
32. Macrob. *Sat.* 1.16.28–30.
33. Plin. *NH* 16.37; Gell. 15.27.4 (Laelius Felix).
34. See Rüpke 2011, 59–64 for an extensive account, contra Hölkeskamp 1988.
35. Cic. *Mur.* 28; Rüpke 2008, 31–32.
36. Macrob. *Sat.* 1.13.21; Rüpke 2011, 68–69.

CHAPTER 8. RELIGION AND DIVINATION IN THE SECOND CENTURY

1. See Rawson 1971; 1985, 234.
2. A typical example is *Hist.* 20 Peter = 23 Chass. = 23 Walter.
3. See, e.g., *Hist.* 44f. Peter = 46f. Chass. = 46f. Walter. On Piso, see Forsythe 1994.
4. See, e.g., *Hist.* 25, in agreement with Hemina.
5. Seckel and Kübler count fr. 3 Peter among the *libri magistratuum* in *Iuris prudentiae anteiusinianae reliquiae*. The *libri magistratuum* (fr. 5)—also quoted as *commentarii*—probably belong under a type of specialist book composed and used in the conduct of magistracies (see Rüpke 1992).
6. On the event from 181, see Rosen 1985; Pailler 1988, 623–703; Rüpke 1995b, 372f. n. 16; Rosenberger 2003; for the history of reception, see Willi 1998 (in particular Augustine).
7. Similar: M. Iunius Gracchanus, *De potestatibus* 7, *iur.* 12 Seckel/Kübler/*Dig.* 1,13,1 pr.
8. Gell. 13,15,4 = M. Valerius Messalla, *De auspiciis* 1 Seckel/Kübler = Tuditanus *iur.* 2 = *hist.* 7 Peter.
9. Objectively the development of a chief office of one, two or three office-holders (praetor, consuls) probably is in the background; thus Momigliano 1969, Bleicken 1988, 118.
10. Cic. *Div.* 1.49, 48, 55 = *hist.* 11, 34, 49 Peter = 11, 41, 57 Chass./Beck, Walter.
11. Cf. also the obviously highly distanced report about a temple robbery, incorporated into an *itinerarium* in *hist.* 28 Peter = 35 Chass./Beck, Walter.
12. *Hist.* 20 Peter = 20b Chass./Beck, Walter = Cic. *Div.* 1.77.
13. See Barton 1994, 32–37; Rawson 1989, 450. In view of the paucity of evidence, greater certainty is not possible. The astronomical work of C. Sulpicius Gallus, who taught his compatriots about lunar eclipses during the Battle of Pydna in 168, was certainly

written in Greek (see Cic. *Brut.* 78); and as he died before 149 (ibid., 90), it was certainly composed before that year. Plin. *NH* 2.53 (see also index) still uses Gallus's work. For Gallus's intensive reception of Greek culture, see Gruen 1992, 244f.

14. This clearly modifies Orth's (1996, 101–3) lower-class hypothesis. For an extensive study of the debate on astrology in the ancient world, see Stuckrad 2000.

15. Cic. *Brut.* 102.

16. For discussion, see Frier 1999 (including the introduction, vii–xix); Chassignet 1996; Rüpke 2008, 33–37.

17. Cic. *Leg.* 2.52ff. = P. Scaevola, *iur.* 3 Seckel/Kübler.

18. Loeb translation of C. W. Keyes, modified to accord with the Latin text used here.

19. Ogilvie 1965, 11–12; Rüpke 2005a, 1484 n. 57.

20. For the historical context, see Rüpke 1995b, 319–30; Beard 1994; Beard, North, and Price 1998, 108–13.

21. Beard, North, and Price 1998, 112.

22. No detailed analysis as yet exists. See North 1990b, 536f.

23. For details, see below.

24. See in more detail Rüpke 1990, 110f.

25. Cic. *Lael.* 96: (*Laelius*:) *Atque, ut ad me redeam, meministis, Q. Maxumo, fratre Scipionis, et L. Mancino consulibus quam popularis lex de sacerdotiis C. Licini Crassi videbatur! cooptatio enim collegiorum ad populi beneficium transferebatur; atque is primus instituit in forum versus agere cum populo. tamen illius vendibilem orationem religio deorum immortalium nobis defendentibus facile vincebat. atque id actum est praetore me quinquennio ante, quam consul sum factus; ita re magis quam summa auctoritate causa illa defensa est.*

26. Nonius 398.28 M = 640 L, from Cic. *Rep.* 6.2.

27. *Oratio Laeli, quam omnes habemus in manibus, quam simpulia pontificum dis immortalibus grata sint Samiaeque, uti scribit capudines.* Thus also Cic. *Brut.* 83: *oratio de collegiis.* More at Cic. *Nat.* 3.43 and 3.5.

28. Broughton 1952, 1:562, no. 5. Discussion about law: Linderski 1972; Marshall 1985, 129–32; Hantos 1988, 120–25; North 1990.

29. The latter are still explicitly named in the context of the factual revision of the law and the increasing number of members related to Sulla's *lex Cornelia* in 81. For this law, however, an involvement of the *decemviri* is probable. In Livy's excerpts from 98 Iulius Obsequens is still talking about *decemviri* (47), while concerning 76 Fenestella (fr. 18 Peter = Lact. *Inst.* 1.6.14) already mentions three *quindecimviri* as such (missed by Hantos 1988, 125, no. 21, who refers only to Cic. *Fam.* 8.4.1 from 51). The reference to *epulones* assigned to the pontiffs has to be left open. As *septemviri* they are named only in sources from the imperial period and for the first time in the year 44, with an increase from seven to ten persons (Dio 43.51.9). More than three members is probable only for the year 39. It is notable that Varro does not dedicate a book to them in the *Antiquitates*. It was only when Augustus enforced conformity on the priesthoods as regards cult acts that concerned the dynasty that they appear equivalent to the other colleges: henceforth the group constitutes the *quattuor amplissima collegia*. Mommsen 1887, 29, no. 3 wanted

to see this categorization from the imperial period as evidence for equal treatment by the law of Sulla, because he could not otherwise understand the rating of *epulones*. The main source is Cic. *Leg. agr.* 2.16–18. Applicants and law are briefly explicated by Vell. 2.12.3: *Quo anno Cn. Domitius tribunus pl(ebis) legem tulit, ut sacerdotes, quos antea conlegae sufficiebant, populus crearet*. Cicero adduces as an instance in *Epistulae ad Brut.* 1.5.3 the election of Marius as an augur *in absentia*: *Gaius enim Marius, cum in Cappadocia esset, lege Domitia factus est augur nec quo minus id postea liceret ulla lex sanxit*.

30. P. L. Schmidt 2001b, 958.

31. This is the claim of Linderski 1972, 192, for which there is no proof. Linderski takes regulation by law of this procedure for granted. A letter by Marcus Caelius in the corpus of Ciceronian letters (Cic. *Fam.* 8.4.1) attests to the practical placement of elections to priesthoods between the elections of consuls and praetors in the year 51; this situation can be due neither to the *lex Iulia* of 44 nor to the law of Labienus, which Linderski rightly understands as a reestablishment of Domitius's law. On Linderski's understanding, only the *lex Domitia* remains to explain this situation.

32. North 1990.

33. *Ibid.*, 540, nos. 26, 29.

34. For problems of dating and the question of the college, see Rüpke 2008. The date of the father's death is not known; the last proof of his life is his censorship of 115. See Szemler 1972, 124. J. Martin 1965, 176–78, sees purely personal motives at work.

35. Szemler 1972, 115; for co-option, see Liv. 42.28.13.

36. Suet. *Nero* 2.1: *atavus eius (sc. Nero) Cn. Domitius in tribunatu pontificibus offensior, quod alium quam se in patris sui locum cooptassent, ius sacerdotum subrogandorum a collegiis ad populum transtulit*.

37. Ascon. p. 21 Clark: *Cn. Domitius, qui consul fuit cum C. Cassio, cum esset tr(ibunus) pl(ebis) iratus Scauro, quod eum in augurum collegium non cooptaverat, diem ei dixit apud populum et multam irrogavit*.

38. For such “inter-generational transfer of priesthoods”, see North 1990; Rüpke 1996b.

39. Scaurus's absence from Rome in the years 112/11 establishes the *terminus post quem* for these events. Most likely one should think about the time directly after 109. Marshall's (1985, 130f.) discussion of the contrast between Asconius and Suetonius—the former names Scaurus as an augur, while the latter describes Domitius as rejected by the pontiffs—suffers from the fact that it assumes that the rejection and hence the vacancies in the colleges occurred in 104 (103). A list of Asconius's mistakes is presented by McDermott 1969, 242, no. 2.

40. For the term, see, e.g., Brunt 1971, 93–95 and—with a focus on the history of research—Ferrary 1997.

41. J. Martin 1965, 220 (see also 150 for the start stresses *popularis ratio* as a key term of the discourse). Similarly, although moralistically charged, Brunt 1971, 94f. The common ground for this particular discussion must be understood as a political culture under pressure from contemporary Hellenism. The public exercise of power became less and less a political process, in which dispute between opinions and groups balanced powers. The

political process consolidated rather around institutions intended above all to authorize powers. Behrends (1987, 113) demonstrated this development in the realm of law.

42. The daughter of the first marriage, Aemilia, became the second wife of Pompeius; see the scheme in Syme 1939, Genealogical tables 1. The great-grandfather had been the second plebeian *pontifex maximus* (c. 243–221); in a genealogical sense the descent from grandfather to father is not sure. Said *pontifex maximus* is believed to have saved the Palladium from the burning temple of Vesta and to have lost his eyesight at that moment. Cicero reports in his speech *Pro Scauro* that the grandfather had been *pontifex* from 216 till (at least) 179, Bardt 1871, 9 even supposes 169. For the father no priesthood is documented, while the uncle, Q. Caecilius Metellus Macedonicus, had been augur between approximately 140 and 115; Szemler 1972, 145f.

43. The only source is still Val. Max. 6.9.13.

44. The case of Servilius shows how carefully one should deal with the hypothesis of continuity of interests within the family. The son Quintus also pushed a tough optimate policy, but switched to the *equites* at the end of the 90s. In 92 we meet him again as Scaurus's accuser.

45. Quintus was probably around twenty-five years old; his young age makes direct succession likely. If one shied from succession, a later date would be probable—and there would have been a gap in between. He was quaestor in approximately 110.

46. See Walde 1999, 158. For early politics, see J. Martin 1965, 170; the son Scaevola probably defended the Vestal Virgin Licinia in 114.

47. Vopiscus was the uncle of Iulia, who had been married to Marius since 112.

48. The alliance in that branch of the family with the Metelli was in full swing; see Syme 1939: Genealogical tables 1.

49. Thus J. Martin 1965, 185.

50. See Rawson 1974, 207f. and passim for an extensive sketch of the religious situation and political religious initiatives of the final quarter of the second century, which Rawson interprets from the perspective of popular attempts to abolish optimate control of public religion (194).

51. Ascon. *Mil.* p. 39 Stangl; Liv. *Per.* 63. S.a. Gruen 1968, 127–29.

52. See Rüpke 2008, no. 2219.

53. See the discussion in Libero 1992, 64–68, with additional literature about the *lex Aelia et Fufia*.

54. 1998, 110: "the law must therefore have been an intervention into that *ius*."

55. Certain membership is indicated by roman; probable membership is indicated by italic. For detailed argumentation, see Rüpke 2008.

56. The order of names follows the principles of ancient membership registers, with seniority determined by the date of members' entrance into the college.

57. For criticism of the concept, see Astin 1967, 294–306; Gruen 1992, 226, 252. For the historical context, see Gruen 1984; Ferrary 1988. See Vaahtera 2000, 262f. for possible influence on Polybius, particularly with respect to religion.

58. Cic. *Lael.* 77 makes a co-option before the consulate of 140 possible.

59. Suggested by Gabba 1969. Manuwald (2001, 223–25) takes issue with Gabba's proposition and adopts an agnostic stance.
60. Cic. *Brut.* 107.
61. Beard, North, and Price 1998, 109–10.

CHAPTER 9. RELIGION IN THE *LEX URSONENSIS*

1. Cf. Beard 1986 for late republican religious reasoning in general. I am grateful to the late Simon Price for having given me the opportunity to present this argumentation at the Centre for Classical Studies of Oxford University.
2. Flower 2002b.
3. Paillet 1988 for the *SC*; see Sumner 1963; Astin 1964; Linderski 1995; Libero 1992 for legislation on *obnuntiatio*.
4. For the latter, see MacBain 1982 and, more critically, Rosenberger 2005.
5. *Senatusconsulta de Thisbaeis, Oropiis, Aphrodisiensibus*.
6. See Gabba 1988, 162f. for archaic features.
7. I follow the pragmatic stance of Crawford 1996, 362. See Cic. *Fam.* 6.18.1 for a possible date and *CIL* 5.2864 = *ILS* 5406 for the name.
8. Cf. Marek 1993, 45 for the advance of Pompeius in systematizing provinces in Asia Minor by urbanization.
9. Gabba 1988, 158.
10. See Gabba 1988, 160–62.
11. Published by Caballos Rufino 2006.
12. See Crawford 1996, 397: “religious matters, Chs. LXIV–LXXII, to which two chapters on regulations for burial form a natural pendant.”
13. Cic. *Leg.* 2.22.
14. See Crawford 1996, 433 ad loc.
15. Crawford 1996, 397.
16. Thus, contra Crawford 1996, 440 ad loc. and translation, it would be senseless to interpret *annis V proxumis* as the period directly preceding the appointment. The chapter does not aim to restrict the offices to long-term inhabitants, but to ensure their factual liability in cases of fraud and so on during a five-year test period. Otherwise the ensuing regulation concerning the removal from office would be irrelevant: the conditions would have to be validated before the entrance into office. Without discussing the inclusion of priests, Mommsen (1905, 223) formulates a similar conclusion for the decurions.
17. See González 1986, 223f.
18. A divergent approach is taken by Kippenberg (2003), who, however, does not discuss the evidence from the municipal laws.
19. The peculiar *resq(ue) diuinas*, as added to *sacra* in ch. 69, might denote the whole infrastructure of ritual, that is, temples, instruments, and so forth.
20. See ch. 128. Thus Ames's 1998, 66 translation; cf. Crawford: “preparing of couches.”

21. See Rüpke 1995b, 135f.; Ruck 1996.
22. Ando 2000, 408.
23. Coligny: e.g., Olmsted 1992; Monard 1999; edition: *RIG* 3 (Duval 1986).
24. Crawford 1996, no. 2.63, 70.
25. Crawford 1996, no. 24.98.
26. Mommsen 1905, 260, pointing to *CIL* 8.6357 = *ILS* 6868; for market days, see Nollé 1982; Fryan 1993; Ligt 1993.
27. See Rüpke 1995b, 534–46, and 2006c for the following.
28. Varro *Ling.* 6.12.
29. See Rüpke 1995b, 492–500.
30. Misinterpreted by González 1986, 236.
31. I doubt the conclusion to the contrary by Crawford 1996, 434, drawing on Scheid 1992.
32. See above, Chapter 7; and Rüpke 2011, 38–43; 1995, 535f.
33. See Rüpke 1995b, 160–64.
34. See ch. 65: *sacra, quae in colon(ia) aliove quo loco colonorum nomine fiant*.
35. The term *munus* need not refer to gladiatorial shows, *pace* Crawford 1996, 395.
36. Parallels between these expenses and *summae honorariae* are rightly drawn by D’Ors 1986, 163. Cf. Veyne 1976 for the financing of games and the euergetic system in general.
37. I am grateful to Andreas Bendlin for this remark.
38. For the Roman prehistory of games to the Capitoline triad, see Bernstein 1998.
39. See Sauron 1994.
40. See *lex Irnitana*, ch. 81 (9A, 21–28).
41. See, e.g., the early definition of vintage holidays in *lex Irnit.* 5C, 24–45 (ch. K); cf. *Dig.* 2.12.4.
42. *Lex Irnit.* 10C, 25–51 (ch. 92).
43. In González 1986, 198.
44. Cf. D’Ors 1986, 180f.; see Rüpke 1995b, 542–46 for details.
45. Wissowa 1912, 79.
46. For a fuller treatment of the topic from the perspective of “urban religion and imperial expansion” see Rüpke 2006e.
47. Thus, however, Crawford 1996, 434 ad loc.
48. See van Haepelen 2002.
49. See Linderski 1986; Rüpke 2005a, 1441–55.
50. Torelli 1966.
51. See Linderski 1995; Burckhardt 1988; Libero 1992.
52. See Crawford 1996, 435 for a summary of the discussion and a rather negative view concerning that possibility. I would prefer a more positive stance; the norms at Urso spell out a position that was controversial at Rome: the augur could lose his office.
53. See Cic. *Leg. agr.* 2.18; and above, Chapter 8.
54. Thus Mommsen 1905, 248.
55. See chs. 70–71 and 126–27.

56. Used in chs. 64–65, 69, 72.
57. See above, ch. 2, p. 42.
58. See Scheid 1988 and Rüpke 2007b, 140–44.
59. See chs. 65, 69–72; it is important for ch. 128, too.

CHAPTER 10. RELIGIOUS DISCOURSES IN THE SECOND AND FIRST CENTURIES

1. Lucr. 2.600–659, 1090ff.; 3.322; book 6. Thus Segal 1990.
2. The best approach to any study of these works is still to look at the comments by Arthur Stanley Pease.
3. Fundamental, even if not always very helpful as far as the history of religion is concerned, are the edition and comments by Burkhardt and Cardauns.
4. For a synopsis, see Rawson 1985, 298–312; on literature “about the Roman year,” see Degraffi 1963, xxv–xxvi; “the calendar”—that is to say, the *fasti* as such—only seems to have reached its appropriated position as an organizing frame after Julian calendar reform and after the rapid diffusion of inscriptional calendars: here Verrius Flaccus and Ovid rank first. For literature *de fastis*, see in detail Rüpke 1997a.
5. On the self-conception of Ciceronian philosophy, see P. L. Schmidt 1978/79; for classification of philosophical work and self-stylization of members of the Roman nobility in their public *personae*, see Leonhardt 1999.
6. For this, see Moatti 1997, 204ff.
7. For the rhetorics of the rational argument in Cicero, see Wisse 2007 and Fotheringham 2007.
8. Winter 1998, 50.
9. For the use of the already antique term in the modern history of science, see Momigliano 1990.
10. Moatti 1997, 100.
11. Cf. Vogt-Spira 1999.
12. The exact dating and form of these works remain debatable. For the reconstruction of Ennius’s intention, the non-euhemeristic interpretation of the Hellenistic original by Müller 1993 seems important to me.
13. A natural-philosophic-reductionistic interpretation of Iuppiter can be found, e.g., at fr. 39 Courtney = Var. 54–58 V: *Iuppiter . . . quem Graeci uocant aerem*.
14. Moatti 1997, 159ff. Liebeschuetz 1979, 29–39 speaks of the “rationalism of the late republic,” but uses the term rather to highlight the incompleteness of rationalization by pointing to the positive approach of Varro or Cicero toward ritual (31).
15. Thus Rüpke 2003b.
16. On the supposed commentary on the *fasti* by Fulvius Nobilior, see below, Chapter 11.
17. Examples include *De iure pontificio* by Q. Fabius Maximus Servilianus, *De potestatibus* by M. Iunius Congus, and perhaps also *monumenta* by M’. Manilius, consul in 149.

18. For Athridography, see Pearson 1942; Rhodes 1990.
19. See Rüpke 2008, 33–37 with reference to the beginning of the *commentarii* of the *pontifex maximus*.
20. On the term “rigorism,” see Gladigow 1993.
21. See Tac. *Ann.* 3.58f. The case of A. Postumius Albinus from the third century is comparable: Liv. *Per.* 19; Val. Max. 1.1.2; Tac. *Ann.* 3.71; see Vanggaard 1988, 70. On the regulation limiting the Flamen Dialis’s absence from Rome to three days, cf. Simón 1996, 103–10.
22. Rüpke 1996, 267–71.
23. Liv. 37.33.7; Polyb. 21.13.7–14. On the context of this event of 190, see Rüpke 1995b, 325; cf. Seguin 1974.
24. This is not only terminologically aimed at Fuhrmann’s awareness of crisis, and the therefore resulting intention for renewal (1987, 134), but also against the dating of the decisive processes in the late republican or Augustan epoch (139ff.). In my opinion, in the Augustan period the process regains a peculiar dynamism.
25. See Rüpke 2008, 24–38.
26. See Gabba 2000, 19.
27. On early Roman historiography, cf. Rawson 1976; Ungern-Sternberg 1986, 1989; Chassignet 1996; Sehlmeier 1998; for the sources, see Wiseman 1986, 1994b; Flaig 1995; especially for the *fasti*, Rüpke 1995b; in detail, Mora 1999.
28. See Schanz, Hosius 1927, 234f. for the second century; in detail, Rawson 1985; on the antiquarians in general, see also Fuhrmann 1987; Momigliano 1990.
29. See Richter 1978 for the principles of organization.
30. For the institutionalization of rhetorical training at Rome, see P. L. Schmidt 1975.
31. Wallace-Hadrill 1997, 14 ff.
32. Habinek 1998, 53.
33. Wallace-Hadrill 1997, 14.
34. See Rawson 1985, 91, 93.
35. Cf. Dangel 1995, 24; on Caesar Strabo, 22. The appearance of systematic cycles in the work of Accius (ibid., 31f.), the conjunction of the dramatic work to an epic *argumentum perpetuum* in terms of contents (ibid., 42, 45), as well as the megalomania of the latter annalists, can all be interpreted as indicators of such a process of professionalization. But Rawson 1985 is right when she sketches the process of Roman intellectualization in the second and first centuries as characterized by fragmentation (cf. Wallace-Hadrill 1988).
36. After many discussions, this seems to clear up the issue of the statue at the *aedes Camenarum* (Plin. *NH* 34.19; s.a. Lucil. 747 Krenkel = 794 Marx; and Lucil. 1068 Krenkel = 1028 Marx—*cui sua committunt mortali claustra Camenae*; these hints I owe to Stefan Faller, Freiburg). For a skeptical view of attempts to locate the conflict between Accius and Lucilius in a political context, see Degl’Innocenti Pierini 1980, 9–11.
37. Val. Max. 3.7.11.
38. Liebeschütz 1979, 15; Rüpke 2005e.

CHAPTER II. ENNIUS'S *FASTI* IN FULVIUS'S TEMPLE

1. Cic. *Tusc.* 1.3.
2. Enn. *Ann.* 268–86 Skutsch.
3. Gell. 12.4; Skutsch (1985, 448) interpreted the fragment as relating to Cn. Servilius in the Second Punic War.
4. E.g. Rossi and Breed 2006, 403ff.
5. Enn. *Scaen.* 366–69 Vahlen.
6. Quotation: Enn. fr. *Var.* 7; cf. 1–2 Vahlen: *Quantam statuam faciet populus Romanus, / quantam columnam quae res tuas gestas loquatur.* For the political position of Ennius, see Flores 1974, 85–107.
7. For a detailed discussion of the sources, see Rüpke 2011, 95–105, who follows Aberson 1994, 211–16.
8. Liv. 38.44.
9. See Orlin 1997.
10. Liv. 39.22.1–2.
11. See Cato *Orat.* 72 Sblendorio Cugusi; cf. *ibid.* 103–6.
12. The most explicit account of the events is given in the *panegyricus* of Eumenius in 297 C.E. (9.7.3): *Aedem Herculis Musarum in circo Flaminio Fulvius ille Nobilior ex pecunia censoria fecit, non id modo secutus quod ipse litteris et summi poetae amicitia duceretur, sed quod in Graecia cum esset imperator acceperat Heraclen Musagetem esse, id est comitem ducemque Musarum, idemque primus novem signa, hoc est omnium, Camenarum ex Ambra-ciensi oppido translata sub tutela fortissimi numinis consecravit, ut res est, quia mutuis opibus et praemiis iuvare ornarique deberent: Musarum quies defensione Herculis et virtus Herculis voce Musarum.*
13. Liv. 31.12.10; Fest. 446.26–448.4 L.
14. See, e.g., Val. Max. 3.7.11; Plin. *NH* 34.19. The existence of the college is disputed: Horsfall 1976; Romano 1990.
15. Macrob. *Sat.* 1.12.16: *Nam Fulvius Nobilior in fastis, quos in aede Herculis Musarum posuit, Romulum dicit.*
16. See Rüpke 1995b.
17. See Pais 1909, 208f.; Frazer 1929, 4:346; Boyancé 1955, 174; and—following the latter—Burkert 1961, 241.
18. See Salzman 1990 for the reconstruction of the original form.
19. Rüpke 1994.
20. Degrassi 1963, xx, too, suggests a painting.
21. Stressed by Rawson 1989, 442.
22. E.g., Münzer 1910, 267; Boyancé 1955, 174 n. 1; Degrassi 1963, xxiv. See Michels 1967, 125 n. 18: “I like to think that he inspired Verrius Flaccus with the idea for *Fasti Praen[estini]*.”
23. Michels 1967, 125, n. 18 thinks of a secondary wall edition of an original book.
24. The translation follows that of Roland G. Kent (Loeb Classical Library).
25. Followed by Suetonius: Isid. *Nat.* 4 (= Suet. fr. p. 163.4–165.6).

26. Cf. the discussion by Mercklin 1840/41, 32–41.
27. Macrobi. *Sat.* 1.12.16; see below.
28. For the identification of the work, see Mercklin 1840/41, 43f.
29. Cens. 22.14–15.
30. Ov. *Fast.* 3.1–166, esp. 151–56.
31. Macrobi. *Sat.* 1.12.12.

32. For the discussion of the sources, see Türk 1962, 1968a, who later rethought some of his earlier conclusions; see Türk 1968b, 576 n. 4. For Macrobius's presentation of the material, cf. Türk 1963, 339. The sources of Macrobius's account of the Roman calendar have been analyzed by Mastandrea (1979, 15–19, with bibliography 16 n. 12). He underscores the key role of Cornelius Labeo as an intermediary source for Macrobius and John Lydus (58–65). For an opposing view, see Wissowa 1880, who believes that Suetonius is the main source. Mastandrea's convincing reconstruction, however, does not address the issue of the additional sources used directly by Macrobius.

33. Macrobi. *Sat.* 1.13.1–5.

34. Macrobi. *Sat.* 1.12.8: *Secundum mensem nominavit Aprilem.*

35. Macrobi. *Sat.* 1.12.8–11.

36. Macrobi. *Sat.* 1.12.13. Cincius in § 12. According to the *Fasti Praenestini*, Verrius Flaccus preferred the derivation from Venus (Aphrodite); *aperiri* is only a second possibility (*Inscr. Ital.* 13.2.127): [*Alii ab ape*]ri[li] q[uod]am i[n m]ense, quia fruges, flores animaliaque ac maria et terrae aperiuntur.

37. Given the frequent exchange of *C* and *G* in the majuscular tradition, the Cingius of the Macrobius manuscript should be identified with the late republican antiquarian Cincius. The content of Macrobius's quotations agrees with the other fragments attributed to Cincius (*GRF*, p. 371–82 Funaioli). Varro never quotes Cincius, and we have no evidence that Cincius quoted Varro. Verrius Flaccus most likely used Cincius for his quotations of Aelius Stilo, Varro's teacher. See especially Fest. 439.18–22 L and 166.11–17 L. Verrius's interest in comparing Varro's and Cincius's positions is suggested by *consentit* in the passage quoted above and *idem fere sentiunt* in Fest. 454.1–7 L, in which we find a reference to Cincius (and Sennius Capito) after a quotation of Varro. For an opposing view, see Mastandrea 1979, 202, who attributes this comparison to Cornelius Labeo in the third century (193). Verrius Flaccus followed Varro for the month of June. See Paul Fest. 92.6–7 L: *Iunium mensem dictum putant a Iunone. idem ipsum dicebant Iunonium et Iunonalem*. The extensive account of Oscan-Latin parallels for the name May (Fest. 120.6–12 L; cf. the following entry about Oscan *Maesius* in Paul Fest. 121.4–5 L) points in the same direction. A secure dating for Cincius, however, is possible only on the basis of his quotation of the formula to declare war on Cleopatra in quasi-fetial forms in 32 B.C.E. (Rüpke 1990, 105), recorded by Cincius in modified form in his *De re militari* (Gell. 16.4.1). It is likely that the two authors intentionally avoided mentioning one another. The disagreement in their positions might be indicated by the presence of *ego*, used twice by Varro to introduce his position in *Ling.* 6.33f. In the preserved parts of Varro's work, the use of the first-person pronoun to introduce his own opinion is found in the context of only two other etymologies (5.43: Aventinus; 5.83: Pontifex).

38. Macrob. *Sat.* 1.12.20. The change of sources described above belongs to §§ 17–19. The extent of the usage of Labeo can be reconstructed by comparison with the *De mensibus* of Lydus, who frequently cites Labeo as a source (Mastandrea 1979, 43–65).

39. Ovid, who is aware of the “constitutional” interpretation of May and June (*Fast.* 5.57–78), could have used Varro’s *Antiquitates* either directly or via Verrius Flaccus (and other contemporary sources for such a popular tradition cannot be excluded).

40. Fest. 92.6–7 L. Macrob. *Sat.* 1.12.30: *Iunius Maium sequitur, aut ex parte populi, ut supra diximus, nominatus, aut ut Cingius arbitratur quod Iunonius apud Latinos ante uocitatus, diuque apud Aricinos Praenestinosque hac appellatione in fastos relatus sit adeo ut, sicut Nisus in commentariis fastorum dicit, apud maiores quoque nostros haec appellatio mensis diu manserit, sed post detritis quibusdam litteris ex Iunonio Iunius dictus sit. nam et aedes Iunoni Monetae kalend. Iuniis dedicata est.* Verrius, too, points to Latin names of the month in the fragments of the *Fasti Praenestini*, e.g., in the explanations for January and March (*Inscr. Ital.* 13.2.III, 121). For January, cf. Fest. 93.4 L (*ianual*).

41. Macrob. *Sat.* 1.12.31–33.

42. Varro’s use of the older annalists can be verified through the transmission of Cassius Hemina, who is nearly always quoted through Varro (Albrecht 1992, 304).

43. For the image of Numa in the time of Cicero and Augustus, see Gabba 1984b, 85f.; Buchheit 1993; for late antiquity, see Cancik 1977, 8–10; Brandt 1988; Fugmann 1990, 153–75.

44. As maintained by Burkert (1961, 241f.), who cites Ov. *Fast.* 1.1f.: *Tempora cum causis Latium digesta per annum / lapsaque sub terras ortaue signa canam*. Burkert does not realize that this twofold formula aims at preparing the reader of his *libri fastorum* for what could not be expected, the rising and setting of stars. These are additionally introduced by a sort of inner *prooemium* (1.295f.). Rosen (1985, 86) wishes to ascribe the quotation of Numa to Fulvius’s calendar, but this hypothesis should be rejected together with the idea of a Fulvian calendar book.

45. Thus Boyancé 1955, 185–92, 175–7, broadly followed by Burkert 1961, 242, who, however, points to the almost improbable convergence of Fulvius and Lydus.

46. Liv. 40.29.3–14; Val. Max. 1.1.12; Plin. *NH* 13.84–87, naming earlier authors; Plut. *Numa* 22.2–8; Lact. *Inst.* 1.22.5 and 6–8.

47. Rosen (1985, 79–81) claims it is the historical kernel of the tradition. Given the politico-religious discussion of the time, the books would have built on the legend of Numa and Egeria and would have refueled the discussion about the divine status of individual politicians (82–84). For the history of the tradition, see Rosenberger 2003.

48. See Burkert 1961, 243, against Boyancé and others.

49. Symm. *Epist.* 1.20.2.

50. See also Plin. *Dub. serm.* fr. Char. gramm. p. 175.21–24 Barwick (p. 14.7–10 Beck).

51. The severely limited content of the authentic fragments prevents us from following the suggestion of Udo Scholz (1990, 261), who attributes to Fulvius the report of the existence of calendar years of four and six months, those of the Arcadians and the Acarnanians, respectively (Plut. *Numa* 18.6; Cens. 19.7; Macrob. *Sat.* 1.12.2). Such collections of

ethnographical oddities are common in Greek writings and usually do not rely on actual visits to the places in question.

52. Mastandrea 1979, 20f.

53. Headings of more than one line are preserved for the *Fasti Foronovani* (three lines) and *Fasti Maffeiiani* (five lines); such a heading is highly probable for the *fasti* of the *vicomagistri*, too.

54. For the dedication of calendar-like objects in Greece, see Jacoby 1904, 550.

55. Gildenhard 2003.

56. Enn. *Ann.* 58 Skutsch: *precor, Venus, te genetrix patris nostri*.

57. Enn. *Ann.* 77 Skutsch; *Ann.* test. lix Skutsch = Varro *Ling.* 5.55; see Skutsch 1985, 252f.

58. See Macrobi. *Sat.* 1.13.20; Cens. 20.4.

59. Enn. *Ann.* 114–18 Skutsch, in particular the list of the *flamines* at 116–18.

60. Enn. *Ann.* 153 Skutsch.

61. Enn. *Inc.* 32 (Vahlen) = Cens. 19.2, on the basis of which Skutsch (1985, 314) attributes “speculations on the calendar” to Ennius.

62. See Rüpke 2011.

63. See Aberson 1994 and Orlin 1997.

64. Rüpke 1995b, 43–44, 346–52.

65. I am grateful to Denis Feeney, of Princeton University, who made me rethink the hypothesis expressed at Rüpke 1995b, 365, namely that the earlier period was represented in the form of dedication dates only (see now Feeney 2007 and Rüpke 2011).

66. See Rüpke 1995c.

67. Cf. Dillery 2002, 7–8.

68. Enn. *Ann.* 290 Skutsch.

69. Enn. *Ann.* 304–6 Skutsch.

70. Cf. Veyne 1979, 14: “Rome aura, comme la Grèce, une culture savante.”

71. This is stressed by Jehne 2002, 71 as characteristic for the first century B.C.E., too.

72. For Ennius, see Winiarczyk 1994, 2002; for the Greek original, Müller 1993. The technique had been employed by the Greeks since Herodotus (see Cancik 2005, 94f.).

CHAPTER 12. VARRO'S *TRIA GENERA THEOLOGIAE*

1. For a definition, see the articles in Stietencron 1986; in particular, Gladigow 1986; and Rüpke 2007b, 119–34.

2. Such is the thesis of Lieberg 1982, first criticized by Rüpke 2005b (cf. now Ando 2010). According to Lieberg, Varro also continued to use the Greek terms; it is only the term *theologia civilis* that replaced any originally Greek term completely. The retranslation of Augustine with *politice* (Aug. *Civ.* 6.12 = Varro *Ant. rer. div.* fr. 6 Cardauns), as Bendlin 1998 plausibly suggests, is not fully adequate. On the history of reception of the resulting term “political theology,” see Cancik 1983a.

3. After Pépin 1956, Lieberg 1973, 1982 was particularly responsible for popularizing the term *theologia tripertita*; Lehmann 1997 stretches the connotation even further and speaks also of *religio tripertita*. Here every relation to the antique linguistic usage (which attests to *Tripertita* as the title of a commentary to the Twelve Tables) is lost. Tertullian, in the polemical second book of *Ad nationes*, begins his summary of the Varronian theory thus: *triplici enim genere deorum censum distinxit* (2.1.9). Then the following chapters are dedicated to *genus physicon* (2–4), *gentile* (5–6; 5.1.1: *de communi omnium sensu*), and *mythicon* (7–8). This sequence is summarized by the term *tripertita dispositio* (2.9.1)—not *theologia*.

4. Plat. *Rep.* 379a.

5. Arist. *Metaph.* 1026a19 and elsewhere.

6. The definitive edition is Cardauns 1976; before that, Agahd 1898.

7. Aug. *Civ.* 4.27; the passage might originate from the Varronian *logistoricus Curio* (see Cardauns 1960, 34–38: fr. 5).

8. See Cic. *Leg.* 2.47f.

9. Serv. Auct. *Aen.* 10.175.

10. Lact. *Inst.* 1.6.7; Aug. *Civ.* 7.35; see also Cardauns 1978. It does not follow from this that the *Antiquitates* must have presented a program of reform (in this I follow, setting aside the question of dating, the position of Jocelyn 1982/83; for other views, see Lehmann 1997, 166–70; Cancik 2001, 4). For a senator it was always vital to be able to justify his pastimes by pointing out their relationship to political business. Lehmann's 1997, 166–69 arguments for the early dating of the work around 60 are not convincing.

11. The assumption that Varro, because of his historical-religious knowledge, must have been *Quindecimvir sacris faciundis*, which was formulated by Cichorius 1922, 197–200 and has been accepted almost without exception since (also by Rawson 1985, 96; but see Gagé 1955, 700), is without any foundation. The publication of the *commentarii pontificis* as *annales maximi* (see Frier 1999), for example, or their broad use in antiquarian literature, shows that with regard to such texts—this is even true for the *libri reconditi* (Linderski 1985, 233)—there was no secrecy. On the career of Varro, which led to the praetorship and different political and military special tasks, see Arkenberg 1993, 335f.

12. *Quare quae erunt communia cum populis, una cum civilibus scribemus; e quibus maior societas debet esse nobis cum philosophis quam cum poetis.*

13. With this combination I would like to avoid the reception of the Varronian term as “political theology.” On the history of definition, see Assmann 2000b, 15–31.

14. Thus Baier 1997, 42; Peglau 2003, 138.

15. *Prima . . . theologia maxime accomodata est ad theatrum, secunda ad mundum, tertia ad urbem.*

16. *Magis ad poetas quam ad physicos fuisse populos inclinatos.*

17. This is neglected by Baier 1997, 50.

18. The preserved fragments hardly reveal the depth of the historical argumentation; this argumentation should, as Cancik 2001, 5 shows, not be underestimated and seems to have been carried on contemporaneously with the destruction of places of worship for Isis under the consuls Gabinius and Calpurnius Piso (58).

19. Bryce 1990, 330.
20. On ancient etymology, see Lersch 1838–41; briefly, Coseriu 1975; for Varro in particular, see Schröter 1963.
21. On Roman plunder of Greek art, see Pape 1975. It should be stressed, however, that Roman nobles donated votives to Greek temples at the same time: Guarducci 1937.
22. See in particular Ferrary 1988, after Gruen 1984; see especially Gruen 1990, 1992.
23. See Vogt-Spira 1999, 34 with reference to the literature of the second century; the competition implied in the concept of *imitatio* had an effect only in the first century, but here too—the position of Vogt-Spira could be strengthened by this—it took the form of a competition in the Latin language for the more complete acquisition of a far-off (!), archaic educational culture.
24. Bremmer 1987; generally, E. Schmidt 1909; in summary, Erskine 2001, 224.
25. For later solutions, see Cancik 2008a, 211–26.
26. See, e.g., Boscherini 1970, 87–91.
27. Cf. Fortin 1980, 244, although his conclusions are problematic.
28. On history (mythology) and geography, cf. Rüpke 2001b.
29. Established for historiography by Mutschler 1997, 249.
30. See Moatti 1997, 148f.
31. See Jehne 1999. This is especially clear for the establishment of rhetoric, which for the time being should be limited to the situation at court (which admittedly reached great importance at the end of the second century). Increasing control of access and increasing demand correlate; new patterns of argumentation do not merely support old ones but also present alternatives (see Wallace-Hadrill 1988, 231f.).
32. Reception and assimilation in this area are shown by Gehrke 1996 (cf. Gehrke 1985).
33. In the discussion about the beginning of Roman historiography with Greek texts, this is too easily ignored (see, e.g., Fuhrmann 1987, 138; Rawson 1985, 64); cf. Rüpke 2000a, 44f.
34. Briefly, Wallace-Hadrill 1997, 20.
35. See Bettini 2000.
36. On the significance of philosophy in the Roman upper class, cf. Jocelyn 1976/77.
37. For the latter, see Moatti 1997, 114.
38. In detail, Rawson 1985; differently, Fuhrmann 1987.
39. See, e.g., Philodemus Περὶ εὐσεβείας, col. 42; contra Obbink 1996, 491, the reference to a Varronian threefold partition is not tenable.
40. Serv. Auct. *Aen.* 7.601: *Varro vult morem esse communem consensum omnium simul habitantium, qui inveteratus consuetudinem facit*. On this, see Moatti 1997, 272.
41. Moatti (1997, 273) emphasizes this aspect. Ferrary 1995, 68 arrives at similar conclusions for Cicero: "Cicero's city is neither the city of the wise described by Zeno nor the cosmic city of Chrysippus, even if there are occasional references to the latter . . . , which serve as a measure of distance and comparison: it is real cities which interest him,

above all Rome.” Correspondingly, universalization for him is the universalization of Roman norms and traditions (69).

42. More than 40 percent of the fragments of the sixteen-volume work derive, according to the reckoning of Cardauns, from the fourteenth volume, *De dis certis*.

43. See Elm 2003.

44. Fabius Pictor *Pontifikalrecht* 16 = fr. 6 Seckel/Kübler = Serv. Auct. *Georg.* 1.21.

45. Wissowa 1921.

46. Lehmann 1983, 156.

47. For an account of alternative interpretations, see Perfigli 2004, 35–93.

48. See the commentary of Cardauns 1976, 193.

49. Cardauns 1976, 198.

50. For factual details, see Köves-Zulauf 1990.

51. Concerning Fabulinus, who was certainly mentioned by Varro, but not necessarily in the *Antiquitates*, see Cardauns 1976.

52. This is the succession presented in fr. 90–114.

53. Fr. 137.

54. Fr. 144–56. See Perfigli 2004, 153–61 for details.

55. See the list of all gods named in the *De civitate dei* in Cardauns 1999, 379–80.

56. For a systematic classification of the following findings, see Rüpke 2003a.

57. Cf. Aug. *Civ.* 4.16, p. 165.24 f.: *cum deos singulos singulis rebus et paene singulis motibus adtribuerunt*.

58. “That he really fabricated names . . . is hardly provable” (Cardauns 1976, 240). Both Wissowa’s (1904) fundamental criticism of the value of the names and Walter F. Otto’s (1909) attempts to recover them as gentilician names need to be rejected in principle (not in every detail).

59. A different view in Radke 1970, 44.

60. Varro *Ant. rer. div.* 99 Cardauns.

61. Ibid., passim. Cf. Serv. Auct. *Aen.* 2.141 (= Varro fr. 1 Agahd): *quia et pontifices dicunt singulis actibus proprios deos praeesse*.

62. Varro *Ant. rer. div.* 88, as well as (*officia*) Aug. *Civ.* 6.9, p. 262.29 and Serv. Auct. *Georg.* 1.21.

63. Varro *Ant. rer. div.* 3 Cardauns: *quam quisque deus vim et facultatem ac potestatem cuiusque rei habeat*.

64. See Gladigow 1990, 246f. for Greek alternatives in dealing with problems of competition.

65. Aug. *Civ.* 6.9, pp. 263.26ff.

66. Perfigli 2004, 259. Specific narratives of founding rituals might result from systematization as well; see North 2008.

67. See Cic. *Acad. post.* 1.9: *Nam nos in nostra urbe peregrinantis errantisque tamquam hospites tui libri quasi domum reduxerunt, ut possemus aliquando qui et ubi essemus agnoscere: . . . tu sacrorum iura, tu sacerdotum, tu domesticam, tu bellicam disciplinam . . . tu omnium divinarum humanarumque rerum nomina, genera, officia, causas aperuisti*.

68. On such a process, see Asper 2007, 372–73.

69. Cf. the same result for Tarver's (1997) search for the philosopher in Varro's *De philosophia*.

70. This refutes Lieberg's assumption (1982) that the (pre-)Varronian threefold scheme was common (found also in Lehmann 1997, 193–225).

71. Hagendahl 1958 and 1967 remain fundamental.

72. See Rüpke 2005a, 1564f. for the thesis that G. Wissowa's manual is consciously modeled on the structure of Varro's *Antiquitates rerum divinarum*.

73. Rüpke 1990, 103–17, 136–41; Schnegg-Köhler 2002.

CHAPTER 13. CICERO'S DISCOURSE ON RELIGION

1. Cic. *Div.* 2.1–7.

2. See Henderson 2006.

3. Beard 1986, 36.

4. For discussion about the date, see P. L. Schmidt 1969, 288–92 and the comprehensive treatment in Dyck 2004, 5–7, 22f.

5. Cic. *Leg.* 1.39: *perturbatricem autem harum omnium rerum Academiam, hanc ab Arcesila et Carneade recentem*. Leonhardt (1999, 81–88) has convincingly argued that Cicero's epistemological position did not change much throughout his life and should be understood rather as defined by situations and persuasive strategies ("metaphilosophisch"). Other passages point to the presence of a modified skeptical outlook (*ibid.*, 84 n. 226).

6. The terms are *liberalitas, patriae caritas, pietas, bene merendi . . . referendae gratiae voluntas* (1.43). The topic is expanded in 1.48–52.

7. Thus Sauer (2007, 259), who does not specifically deal with religion. For Cicero's concept of "Naturrecht," see Girardet 1989.

8. Again, this is not realized by the commentary of Dyck (2004, e.g., 240–43, 290–95; cf. 438f., the discussion of the oddities of the structure of the laws in bk. 3).

9. Contra Dyck's claim (2004, 242) that "the arrangement of the laws is fairly straightforward," a claim, however, that is not substantiated.

10. For a critique of functional approaches toward religion (based on E. Durkheim or system theory), see Knoblauch 1999, 116f.

11. See Aug. *Civ.* 6.3; for details, see Rüpke 2007b, 59–61.

12. For Cicero's innovations in the field of religious rules, see Dyck 2004, 14f.

13. See, e.g., 2.23f., 3.11.

14. See 2.23: *quae non sint in nostra re publica nec fuerint*.

15. Cf. Poppel 2007.

16. See 2.32f.

17. E.g., for standards of dedications in 2.45.

18. For possible Greek sources, see Dyck 2004, 12–15, who does not deal with Latin writings on Roman practices here; see also 50–52. In 3.49 Cicero points to M. Iunius

(Gracchanus) for the ensuing section *de potestatum iure* (3.48). Rawson 1973, 345–46 suggested Ap. Claudius on augury and Laelius’s speech on priesthoods from 146 as sources.

19. Dyck 2004, 426f.

20. See Sauer 2007, 252f. (following Max Kaser) for this characterization of Cicero and Roman law in general.

21. Liv. 10.6–9.

22. On the basis of an analysis of book 1, the same conclusion is reached by Sauer (2007), who characterizes the first book as “persuasionsorientierten Text” (239), pointing out the presence of argumentative coherence without any corresponding logical stringency (241).

23. See Cic. *Att.* 13.38f.

24. See below on the question of a philosophical “conversion.”

25. Feil 1986.

26. Dyck (2003b, 60), without noting the implications.

27. Cic. *Nat.* 2.8: *religione, id est cultu deorum*.

28. Cic. *Nat.* 1.118f.; similarly, Lact. *Inst.* 5.14.

29. Emphasis added. This is the philosophical agenda repeated in the subsequent treatise, *On Divination* (2.148–49).

30. See Cic. *Nat.* 1.36, 40, 41.

31. Cf. Wifstrand-Schiebe 2006, 200, who stresses that Cicero’s contemporary Varro, according to Aug. *Civ.* 7.5, is the first author to accord a positive function to images of gods.

32. In 1.71; the translation is by Walsh, who, however, inadequately replaces *haruspex* with “augur,” thus spoiling an important level of the exchange.

33. Thus the equation in Cic. *Nat.* 1.121.

34. Cic. *Nat.* 2.60–63; myths: 2.64–67; etymologies: 2.68–69; physical interpretations and divine virtues in 2.71 and 79; the Silvanus of 2.89, part of a poetical quotation, is explicitly characterized as an unknown being, not as a god.

35. E.g., 2.9: *neglegentia nobilitatis augurii disciplina omissa*. See also the previous note.

36. See Rüpke 1991 for this indicator of genre, referring to Caesar’s *Gallia est omnis divisa in partes tres*. Cf. Cic. *Leg.* 2.20: *eorum autem genera sunt tria*.

37. Again, I have substituted “haruspices” for “diviners”; it is a polemical note that Cotta stresses his acceptance of the haruspical art in the rest of the sentence not quoted here.

38. E.g., in 3.77, 83f., 86–88, 91.

39. Of course, the rhetoric of the *sortes*, like the whole discourse of Cotta (see Schaublin 1990 for book 1), rests on the consent of an imaginary Roman audience. Mora (2003, 15 and 17) misses the point, however, when he supposes Cotta (and already the Stoic position) to be driven by anti-universalistic motifs. Bringing together universalistic arguments and local religious practice is the task to be tackled, not a relation to be criticized.

40. See 1.61 on opinion and the demand of *rationem* . . . *firmam* in 1.62, with the passages quoted above.

41. See 2.3: *etiam negotiis anteponenda*.

42. His self-admonition *ne longior fuerim* (1.56) must be judged ironical.

43. De Filippo 2000, 181. Earlier positions: Rasmussen 2003, 192–95.

44. Lact. *Inst.* 2.3.2.

45. As far as we can see, this is a polemical narrowing by Cicero that does not adequately recognize the far-reaching acceptance of traditional gods by earlier and contemporary Epicureans (see Obbink 2001).

46. See 3.94: *rationem*.

47. E.g., *Div.* 2.50–53 *haruspices*, 54ff. prodigies, 70–83 *auspicia*, 97–99 Roman horoscopes, 111 Sibylline books.

48. See above, note 3.

49. Henderson 2006.

50. See *ibid.*, 177; Krostenko 2000, 357.

51. See Cic. *Leg.* 1.9–10.

52. . . . *ut Romanum hominem, ut timide ingredientem ad hoc genus disputandi*.

53. Henderson 2006.

54. Cic. *Div.* 2.112: *ualeantque ad deponendas potius quam ad suscipiendas religiones*.

55. See Harris 2003 on Roman interest in dreams.

56. In his interpretation of *De divinatione*, Krostenko (2000) too easily embraces the second speech as the author Cicero's real position, but his analysis of this part leads to the similar conclusion that the production and use of religious symbols must be controlled.

57. See, e.g., Liebeschuetz 1979; Rüpke 2007b, 54–61.

58. See, e.g., Sauron 1994 for Caesar, Pompey, and Varro.

59. Rightly stressed by Krostenko 2000, 366–70.

60. Wyler 2006.

61. Rüpke 1995b, 369–91.

62. See above, ch. 12.

CHAPTER 14. GREEK RATIONALITY AND ROMAN TRADITIONS IN THE LATE REPUBLIC

1. Hölkeskamp 1987.

2. Meier 1966.

3. Zanker 1976.

4. Habinek 1998; 2005.

5. Wallace-Hadrill 2008, 17–28.

6. *Ibid.*, 443.

7. *Ibid.*, 447–49.

8. For early Italian narrative paintings, see, e.g., Holliday 1993.

9. Wallace-Hadrill 1994, 17ff.; Rüpke 2005, 1430–32; Wallace-Hadrill 2008, 190–208. See Nevett 2010, 98–99 on the multifunctionality of rooms in the base.

10. Cass. Hemina 23 Peter = 26 Beck/Walter; Calp. Piso 37 Peter = 40 Beck/Walter; Sehlmeier 1999, 152–63; Beck and Walter 2001 ad loc.

11. Coins: Boschung 2008, 189–96; cf. Meadows and Williams (2001, 37–38), who stress the lack of systematization in types.

12. See David 1992, 2007.

13. Gruen 1990, 1992; Ferrary 1988.

14. See Smith 1996.

15. Dionysus: Wiseman 2000.

16. Medieval individuals honored ancient art even before the Renaissance, but their contemporaries might use equivalent objects only as building material (Zanker and Ewald 2004, 9–19).

17. See Cèbe 1960 for further examples.

18. Plaut. *Amph.* 50–63.

19. Plaut. *Asin.* 10f.; *Cas.* 5ff., 31ff.

20. Plaut. *Aul.* 26; *Capt.* 4.

21. See Veyne 1979, 10; Wallace-Hadrill 1997, 20: “the *koine* of the *oikoumene*.”

22. See Rüpke 2001a; I take the image of “plugging in” from Wandhoff 1996, 109ff.

23. For the innovative character of Caecus, see Ferrero 1941, 211.

24. On the orator Cato, see Astin 1978, 131–16.

25. For a collection of sources, Besançon 1910 is still useful.

26. I am grateful to Ulrich Gotter for this remark.

27. Valette-Cagnac 2005, 32.

28. Liv. 7.2; cf. P. L. Schmidt 1989; Bernstein 1998, 119–29.

29. I am grateful to Nicholas Purcell for this observation, communicated in 2002 at Uppsala University.

30. For the late republican and imperial *lusus Troiae*, which did not intend to create winners and losers, see Scheid and Svenbro 1996, 40–49.

31. See Rüpke 2005e.

32. See Rüpke 2005a, 1419–39.

33. Wiseman 1992; North 2000, 100–102.

34. I do not, however, share the radical skepticism of Fögen 2002, who raises the precise historical question by pointing out the literary topoi of later accounts.

35. See Humm 2000b on Claudius’s amalgamation of Pythagorean thought and Roman institutions, foreshadowing later processes of reception.

36. Beacham 1991, 25 stresses the varied reception of the new type of theater and the resulting pressure on playwrights to correctly balance political interests and the audience’s experiences.

37. See Ledentu 2004 for a detailed chronological inquiry.

38. Gruen 1992, 272–317; Mueck 2005, 42.

39. See Pina Polo 1996, 12–23 on the right of speech.

40. P. L. Schmidt 1975; Pina Polo 1996, 65–83; Ledentu 2004, 123–41.

41. David 2006, 375–76; here the audience of Caesar's *Wars*, for example, must be sought.
42. Gotter 2002. If, as Timothy Cornell argues, the fragment does not stem from a new preface, the polemic might be restricted to the religious interpretations implied by the *tabula*.
43. Differences between Diodorus and the *Fasti Capitolini* and disputes as referred to by Livy are examples.
44. Sehlmeier 1999, 74.
45. Schanz, Hosius 1927, 353.
46. See above, p. 109.
47. P. Cornelius Scipio Africanus: Polyb. 21.13.7–14; Liv. 37.33.6f.; see Rüpke 2005a, 1571–74 (for the *flamines*, too).
48. For the latter, see Ledentu 2004, 295–355.
49. *Ibid.*, 329–37.
50. Macrob. *Sat.* 3.4.6, 6.9.5; Gell. 7.6.10, 16.6.12; Lydus *De ostentiis* 45.
51. Cic. *Fam.* 3.4.1; Gell. 13.15.3 (Messala *De auspiciis* 1); Macrob. *Sat.* 1.16.29; Fest. 366.10 L.
52. Philosophers were driven out, for example, in 161, 155, and 154 (Gell. 15.11.1; Athen. 12.547a; Plut. *Cato Maj.* 22.5).
53. For the concept of status dissonance, see Jehne 1999 on republican jurisdiction.
54. Lebek 1996.
55. Suet. *Gramm.* 3.5; Plin. *NH* 7.128; see Suerbaum 2002, 544 (*HLL* 1).
56. Suet. *Gramm.* 3.5.
57. For the first century, see Crawford 1978.

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